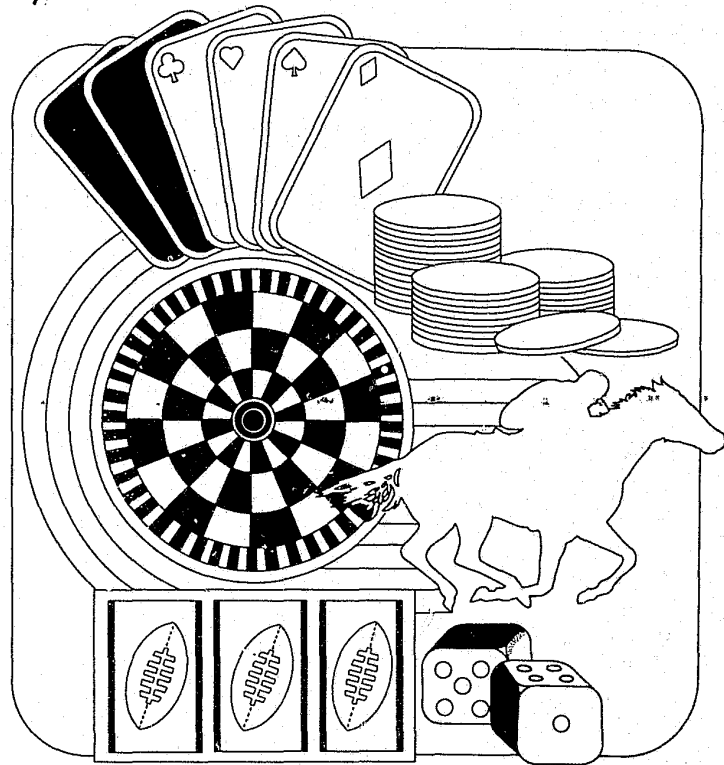


Gambling in America



Appendix 3 Summaries of Commission Hearings

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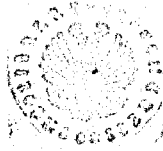
Commission on the Review
of the National
Policy Toward Gambling

SUMMARIES OF HEARING TESTIMONY

before the

COMMISSION ON THE REVIEW OF THE NATIONAL POLICY

TOWARD GAMBLING



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COMMISSION ON THE REVIEW OF THE
NATIONAL POLICY TOWARD GAMBLING

2000 M STREET, N.W.
WASHINGTON, DC 20036

15 October 1976

Honorable Gerald R. Ford
President of the United States
Washington, D.C.

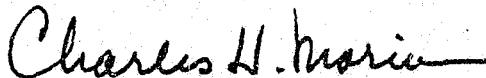
Honorable Nelson A. Rockefeller
President of the Senate
Washington, D.C.

Honorable Carl Albert
Speaker of the House of Representatives
Washington, D.C.

GENTLEMEN:

In accordance with the provisions of sections
804-808 of Public Law No. 452, Ninety-first Congress,
the Commission on the Review of the National Policy
Toward Gambling has the honor to submit its final
report of findings and recommendations.

Respectfully yours,



Charles H. Morin
Chairman

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NOTE TO READER

Between April 3, 1974, and September 23, 1976, the National Gambling Commission conducted 37 days of hearings and received testimony from approximately 265 witnesses. Among the witnesses were elected officials; members of the criminal justice community at the Federal, State, and local levels; officials of gambling regulatory agencies in the United States and abroad; representatives of the various gambling industries, both legal and illegal; members of amateur and professional sports leagues; journalists; and interested citizens. Hearings were held in Washington, D.C., and in nine other cities: Boston, Philadelphia, Detroit, Cleveland, Carson City, Las Vegas, Phoenix, Chicago, and Miami.

This volume contains summaries of the testimony of all principal witnesses, including highlights of the questioning period that followed witnesses' prepared statements. Readers desiring the complete transcripts of these hearings may contact the National Technical Information Service, Springfield, Va. (See Appendix A.)

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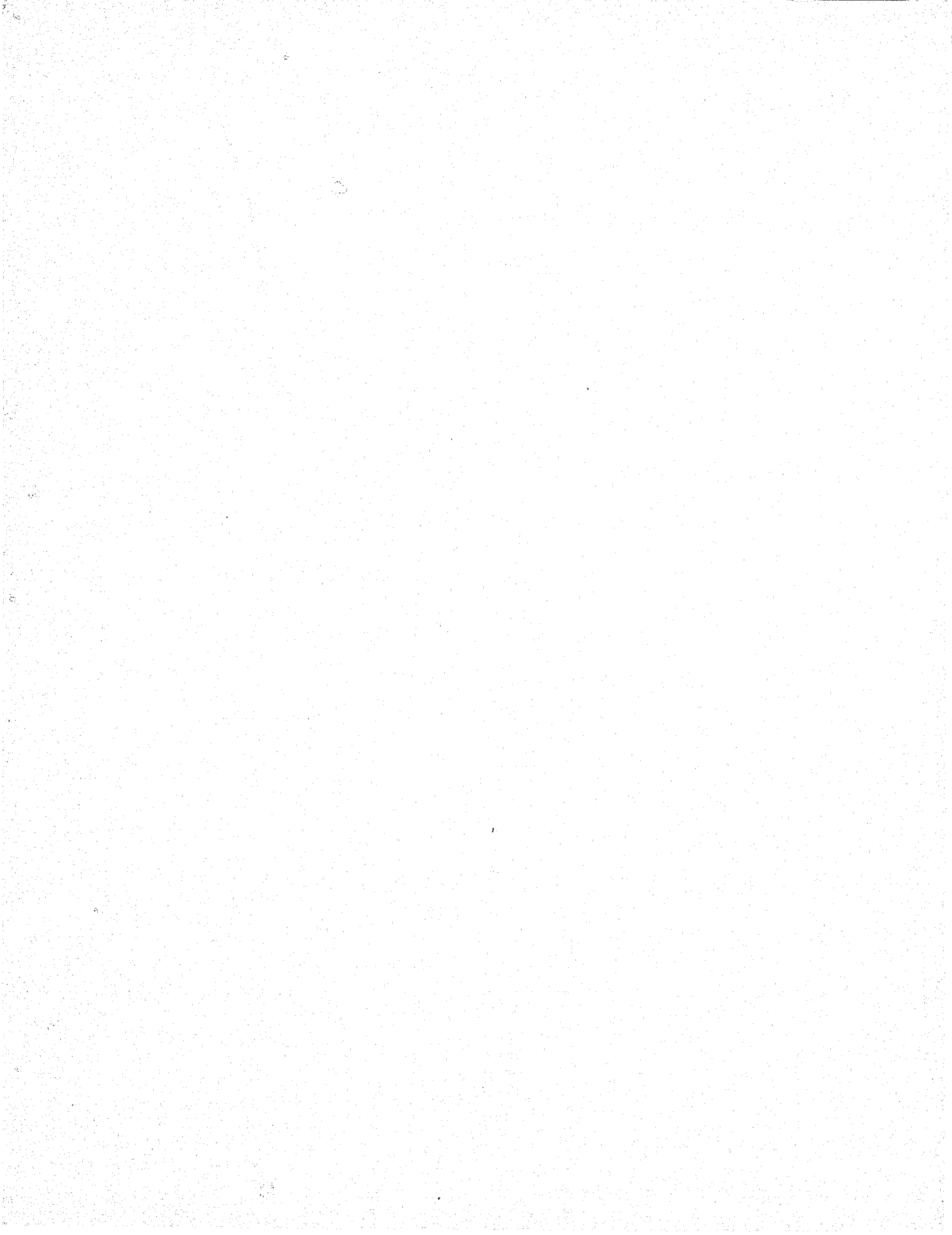
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APRIL 3, 1974
WASHINGTON, D.C.

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TESTIMONY OF:

• Max Goldman, President, Systems Operations, Inc.

APRIL 3, 1974

Systems Operations, Inc., a subsidiary of Mathematica, Inc., has developed 10 lottery systems for six States. Although there are some variations, the basic operation of all the lotteries is similar.

The system--through checks between sales agents, banks, and the lottery, and the use of a computer--makes it nearly impossible to intercept funds, or to steal, forge, or duplicate tickets. All these controls, in addition to the open drawings, have given the public a high degree of confidence in the integrity of the lottery.

There have been no instances of criminal infiltration into the lotteries now operating. The only exception to this would be organized crime using the winning lottery numbers for their numbers operations, or criminal groups printing tickets and running their own lottery in competition with the State.

The lotteries were designed for broad participation by the public but at a low level per purchaser. Studies have shown this to be true. The average buyer is between 25 and 55 years old, is a member of the middle income group, and spends a dollar or 50 cents a week. Most participants do not bet a great deal of money each week because the State lottery is not a multiplier--i.e., a player does not win more by betting more.

Income from the lottery has tended to peak when the lottery is first begun and then gradually decline. Like any consumer product, the lottery must be changed periodically to retain public interest.

The cost of running a lottery is much higher than the cost of other forms of taxation to raise revenue. Actual revenue from the lottery going into State funds is about 45 percent of the gross intake of the lottery. Another 45 percent goes to prizes, and the rest are administrative costs and promotion.

TESTIMONY OF:

• Robert Q. Crane, Treasurer and Receiver General
Commonwealth of Massachusetts

APRIL 3, 1974

The Massachusetts Lottery, in operation for about 2 years, has been very successful. Revenue from the lottery has been rising each year.

The Lottery Commission is composed of four gubernatorial appointees and the State Treasurer. Lottery employees, although not under civil service, are hired on the basis of their qualifications. Revenue from the lottery is distributed among the towns and cities in the State. However, this was not the reason the lottery bill was supported.

The lottery is a State-sponsored business more than a tax-raising agency. Lottery revenue is a supplement to, not a replacement for, taxes and other State revenues.

It is unfair to compare the efficiency of lotteries to taxation as a means of raising revenue. The structure is totally different. The lottery is a voluntary means of fundraising. It is less regressive than many forms of taxation. The point is not whether the lottery is the most effective means of obtaining revenue, but that people simply want to play the game.

There is a large potential market for lottery sales, but, like any other business, it is subject to fluctuations. The market consists primarily of blue- and white-collar workers from the low to middle income groups. Money people spend on the lottery comes from their leisure funds, not from necessities.

TESTIMONY OF:

- Ralph F. Batch, Former Director, New Jersey Lottery
(Currently with Illinois State Lottery)

APRIL 3, 1974

The New Jersey Lottery had three objectives:

1. To raise revenue.
2. To give people a form of legal gambling.
3. To affect organized crime adversely.

It has achieved all three objectives to some degree.

The revenue collected through the lottery is a very small percentage of State revenue. Lottery money is appropriated for State aid to education and institutions. The structure of the lottery commission and employee levels is like that of any other business.

The lottery has had a minor effect on organized crime. A small percentage of lottery players probably switched to it from playing the numbers racket. The lottery has also created a new gambling market.

The New Jersey Lottery offers a subscription program called the Clover Club. The mails are used to pay winners and send acknowledgments of the receipt of money for Clover Club membership, but they are not used for promotion. All this is done with full knowledge of the postal inspectors.

A type of "domino effect" has occurred with the establishment of the State-operated lottery in that other States are instituting--and others will probably institute--lotteries because of the success of lotteries now in operation. This occurrence has brought about the need to remove or modify certain antilottery legislation.

TESTIMONY OF:

● James P. Slicher, Former Director, Maryland State Lottery

APRIL 3, 1974

A successful lottery should be set up with a commission that is advisory and policymaking, not administrative. The only exception to this rule of thumb has been the Michigan Lottery.

The lottery game must be changed often to keep the public interest, but this does not have to involve spending a great deal of money. Legal lotteries must be innovative while illegal lotteries need not be because the latter have the lure of credit, no taxes, and better odds.

Million-dollar winners of the Maryland Lottery receive payment over a 20-year period. The State does not actually pay out a million dollars; it buys an annuity. In this manner, the winner only has to pay taxes on \$50,000 a year.

TESTIMONY OF:

- Samuel Rosen, Professor of Economics,
University of New Hampshire

APRIL 3, 1974

New Hampshire is the only State that has neither a general sales tax nor an income tax. The lottery was adopted in 1963 to avoid enacting a broad-based tax. The funds were earmarked for public education.

The New Hampshire Lottery was initially supported largely by Massachusetts residents. Income from it gradually fell. In 1971, when other States established lotteries, New Hampshire was forced to restructure its lottery and discard the \$3 ticket. As a result, revenue generated by the lottery increased. There are still not enough data from any State to identify a trend in lottery revenue.

The lottery is not a significant source of public revenue. The whole tax structure in New Hampshire needs revamping. The lottery and other factors are postponing this. There is nothing wrong with lotteries unless they are promulgated as a way to cure critical social problems without raising taxes. If this is the case, the people are being misled. Before a State considers a lottery, it should look at its total revenue effort in comparison with other States. A State should at least be matching the average revenue effort.

Earmarking lottery revenues is often done to gain support for the lottery, but that is not the best way to handle funds. It makes it difficult to transfer funds when they are needed for something else, and it fools the public by disguising even small amounts of revenue. The purposes for which lottery funds are earmarked are often those not being sufficiently taken care of from the general fund. Usually the revenue produced by the lottery is still insufficient to take care of the problem.

There is also a question as to whether the lottery is really fulfilling a desire on the part of the people to gamble, since the lotteries in operation constantly require new gimmicks to keep people interested.

One should be suspicious of statistics saying that lotteries have curbed illegal gambling. If the lottery did have a great impact on the illegal game, it would probably become corrupt.

Economically speaking, the lotteries are not producing goods or services. Monies spent on them are merely transfer payments. Lotteries are regressive, costly, and complex to administer, and dysfunctional as a countercyclical fiscal instrument--that is, people are more inclined to gamble when times are bad, in hope of winning a fortune.

As the "domino effect" occurs, as it probably will, and more States adopt lotteries, revenue in each State will suffer.

TESTIMONY OF:

- Edward J. Powers, Executive Director, New Hampshire Sweepstakes Commission

APRIL 3, 1975

Federal antlottery laws are archaic and unfairly administered. Because it had the first State lottery in this century, New Hampshire has had to deal with more Federal barriers than any other State; examples are the postal regulations affecting newspapers and the broadcast regulations as interpreted by the Federal Communications Commission. The requirement in the Federal excise tax on wagering that ultimate winners in the State lotteries be determined by the results of a horserace is a farce and confuses the public.

In 10 years of operation, New Hampshire has proved that a State lottery can be run without either corruption or penetration by racketeers. Since State lotteries have been denied the principal channels of communication, this concept of raising revenue has not yet been truly tested in the marketplace.

If people want to participate in a State lottery, this should be their choice in a free society; they should not be restricted or impeded in this decision. It is a basic right of citizens and sovereign States to use the mails, radio, and television. There should be no restrictions on citizens from one State buying lottery tickets in another State. It would also be a step forward to exempt lottery winnings from Federal taxes to help make legal wagering competitive with illegal gambling.

The New Hampshire Sweepstakes Commission is opposed to a national lottery. The way to maintain the efficiency and honesty of lotteries is to keep them close to the people. State lotteries can be varied, flexible, and exciting. They can give people at the local level what they want. The commission also opposes any Federal regulatory board. There is too much Federal regulation now and there is no apparent need for such a board at this time. The States are cooperating with each other with a free exchange of information and ideas under the leadership of the National Association of State Lotteries. Competition among the lottery States has thus far created a healthy situation. Rather than restricting the participation of citizens in State lotteries, the Federal Government should cooperate with the States as the States are doing with one another.



MAY 15, 1974
WASHINGTON, D.C.

- Donald Alexander (Internal Revenue Service) 10
 - John Olszewski*
 - Mervin D. Boyd*

- Henry Dogin (Department of Justice) 15
 - Edward T. Joyce*

*Accompanied the witness.

TESTIMONY OF:

- Donald Alexander, Commissioner of the Internal Revenue Service
- John Olszewski, Director, Intelligence Division, Internal Revenue Service
- Mervin D. Boyd, Program Analyst, Intelligence Division, Internal Revenue Service

MAY 15, 1974

Income tax statutes provide for the taxing of gambling income, and there are many cases of income tax fraud involving gambling and other illegal sources of income. The Internal Revenue Service continues to investigate major gambling figures through its normal investigative activities and frequently in conjunction with Department of Justice Strike Forces.

Subsequent to the Kefauver hearings, Congress enacted the Wagering Occupational and Wagering Excise Tax statutes in November 1951. The Revenue Act of 1951 provided for an annual \$50 Occupational Tax Stamp and a 10-percent excise tax on the gross wagers accepted by an individual engaged in the wagering business.

The IRS opposed the enactment of these taxes on the grounds that they were unenforceable and unproductive. At the time the wagering statutes were being considered, the Service believed them to be revenue raising measures; however, many members of Congress intended this legislation to be a deterrent to the activities upon which the tax was to be imposed. As a revenue measure it has produced comparatively little when considered in connection with the size of what the Service believes to be the amount of activity subject to the tax. If the law was intended to eliminate gambling, it was not a true revenue measure, and thus beyond the proper jurisdiction of the IRS. Gambling enforcement is the responsibility of the local police, and the disclosure provisions within the law militated against voluntary compliance. If gamblers filed their returns and purchased the tax stamps in those States where gambling is illegal, they would put themselves out of business.

Because Congress never appropriated additional resources for the enforcement of the wagering tax statutes, the IRS has had to divert manpower and resources from other programs within the Intelligence Division to conduct its investigations. The Audit Division has furnished agents for joint investigations in accordance with Service procedures. The IRS continued to oppose the wagering laws because they felt that when a tax law is not properly enforced, it could breed contempt for other tax provisions.

From 1955 through 1973, the Intelligence Division conducted 13,609 full-scale wagering investigations. Of the 13,609 cases closed during this period, 11,772 were for failure to comply with the Occupational Tax Stamp requirement, and 1,837 were for nonpayment of the wagering excise tax. The Service recommended prosecution in 88 percent of these cases; 86 percent of these resulted in indictments, and 76 percent of those indicted were convicted. Sentences for the 7,724 individuals convicted ranged from probation for minor offenses to 5 years imprisonment for the more significant offenses. Violators of the excise tax requirement were usually sentenced to prison terms.

During this period of wagering enforcement activity, there were 6,266 arrests, and the Service seized property valued at \$2.7 million and currency amounting to \$4.5 million. Additional tax and penalties recommended for assessment in cases fully investigated by the Intelligence Division during this period totaled \$26.1 million in tax stamp violations and \$207.9 million in wagering excise tax cases.

IRS records relating to actual tax collections do not distinguish between amounts voluntarily declared and those amounts collected through direct enforcement efforts. From 1955 through 1973, the IRS collected \$106 million from the wagering excise tax, \$10.6 million for Occupational Tax Stamps, and \$307 million from coin-operated gambling devices.

In January 1968, the Supreme Court ruled in the Marchetti-Crosso decisions that a gambler could use his fifth amendment privilege as a valid defense against prosecution for failure to comply with the wagering tax provisions. The Court did not rule the statute unconstitutional but focused on its disclosure provision and the assertion of the constitutional privilege against self-incrimination.

Thereafter the Intelligence Division discontinued criminal investigations directed toward prosecutions for failure to register and pay the occupational tax and willful failure to file wagering excise tax returns, except for cases involving legal wagering operations. Attempts to change the wagering laws to improve revenue administration and to restore the availability of criminal sanctions have failed to result in the enactment of legislation.

In certain areas where there had been an effective enforcement program with a high degree of coordination and cooperation among Federal, State, and local enforcement agencies, the incidence of illegal gambling had been diminished.

Wiretap information is not made available to the IRS until after the case is completed. At that point, the court may determine whether this evidence can be made available to the Service following determination of a tax liability, but not before. The IRS does no wiretapping itself.

The professional gambler earns his living by operating some type of legal or illegal gambling scheme. He does not usually gamble himself, but receives a percentage of the play. The odds are always in his favor. Legal gambling professionals are more likely to report their gambling income for tax purposes than are those engaged in illegal operations. These illegal gamblers generally understate or omit all or substantial portions of their gambling winnings. When this income is reported, however, it is usually a net figure after losses are deducted and is listed as "miscellaneous" or "other" income.

Detailed records of gambling income are seldom available for inspection by the IRS. Reconstruction of income is generally based on available bank accounts and a determination of nondeductible expenditures and net-worth criteria. During the period prior to Marchetti-Grosso, the majority of cases involving gambling income against individuals or casinos were identified through enforcement of the wagering tax laws. Presently these cases are connected with organized crime investigations.

The Service requires that an Information Return Form 1099 be submitted on certain payments made to individuals in excess of \$600. One of the major defects in the present system of withholding gambling winnings is that it reaches only the rare and extraordinary windfall, leaving most winnings untouched. Various methods are used to circumvent this requirement as well. Recently the Service has had success with the utilization of Sections 7201 and 7203, which relate to evasion of taxes and failure to file, respectively. A study conducted by the Service in 1972 concluded that a majority of those who fail to receive a Form 1099 also fail to report their winnings in their annual returns. Bookmakers and others associated with illegal gambling fail to report their income from gambling as well. The IRS feels that a great deal of gambling revenue is taxed each year, but a better job could be done to make sure that there is greater compliance with the wagering laws.

Where bookmaking is legal, it suffers from a competitive disadvantage due to the 10 percent excise tax on wagers for which the illegal bookmaker is not accountable. The net profits and odds granted by legal bookmakers cannot compete with those of their illegal counterparts. These illegal operators have their overhead costs such as the amounts of protection money that must be paid out to local officials and other members of organized crime.

At this time Congress is deliberating a proposal to reduce the percentage of the wagering excise tax from 10 to 2 percent.* The Service is of the opinion that if the percentage were reduced, and the law did not provide for disclosure, it would prove to be an incentive

for compliance and revenue could rise as a result.

The excise tax is imposed on any type of gambling activity where the determination of the winner is not in the presence of the public. Parimutuel racing, off-track betting systems, casino-type gambling, and other forms of gambling where winners are determined in public view are exempt from the wagering excise tax. Earnings from lotteries, numbers, parlay cards, and bookmaking are liable for taxation because the winners are not determined in a public forum.

The applicability of the excise tax to the operation of State-conducted lotteries first became an issue when New Hampshire began operation of its "Sweepstakes" in 1964. The Treasury Department originally held the New Hampshire lottery subject to the tax. As a result, Section 4402 of the Internal Revenue Code of 1954 was amended to exempt State-conducted lotteries in which the ultimate winners were determined by the results of a horserace.

The Service is concerned about the conflict which has developed between its duty to enforce the law under which the exemption applies to the State lotteries, and the responsibility of the States to conduct their lotteries in a fair and responsible manner that will be accepted by the public. The Service hopes that Congress will address itself to this problem, so that the State lotteries can determine their ultimate winners in a way which is best suited to their responsibilities.

The IRS is opposed to exempting legal gambling winnings from taxation. The Service concedes that such legislation would make these programs more competitive with illegal operations, but that it would be a poor way to achieve that particular objective. If gambling earnings were made tax exempt, it would shift the tax burden and only serve to antagonize the tax-paying public. The problem of illegal gambling should be met through enforcement of the laws designed to cope with it.

The Service would not take a position regarding the possible further legalization of gambling. That is a question outside the jurisdiction of the IRS, the function of which is to administer the tax laws. The Service has not been given the responsibility by the Treasury Department to discuss matters of tax policy except to the extent that such policy has already been developed by the Department. Some tax laws do not work

*Section 4401 I.R.C. 1974 was amended in October 1974 by striking "ten percent" and inserting in lieu thereof "two percent." Section 4411, the Occupational Tax, was increased from \$50 to \$500 annually. Subsequent to the enactment of this amendment, the Secretary of the Treasury transferred the administration and enforcement of the wagering tax law from the IRS to the Bureau of Alcohol, Tobacco and Firearms, effective December 1, 1974.

effectively because they attempt to meet goals beyond the proper determination of tax liability, the proper computation of income, or the payment and collection of taxes. To the extent that other features are added to the tax burden, the responsibilities of the IRS are increased. The Service has been given the responsibility to enforce laws that the public finds difficult to accept, which renders the job of enforcement an even more difficult task.

The Service believes that if Congress were to deem the wagering tax law a reasonable revenue measure and the tax imposed nonconfiscatory, and if resources were allocated to conduct wagering investigations, such action would probably have a decided impact on the organized criminal element.*

*The disclosure provision of the wagering tax law, Section 4424 I.R.C. 1954 was amended in October 1974 as follows:

(b) Permissible Disclosure - A disclosure otherwise prohibited by subsection (a) may be made in connection with the administration of civil or criminal enforcement of any tax imposed by this title. However any document or information so disclosed may not be-

(1) divulged or made known in any manner whatsoever by an officer or employee of the United States to any person except in connection with the administration of civil or criminal enforcement of this title, nor

(2) used, directly or indirectly in any criminal prosecution for any offense occurring before the date of enactment of this section.

(c) Use of documents possessed by Taxpayer - Except in connection with the administration of civil or criminal enforcement of any tax imposed by this title-

(1) any stamp denoting payment of the special tax under this chapter,

(2) any original, copy, or abstract possessed by a taxpayer of any return, payment, or registration made by such taxpayer pursuant to this chapter, and

(3) any information come at by the exploitation of any such document, shall not be used against such taxpayer in any criminal proceeding.

TESTIMONY OF:

- Henry Dogin, Deputy Assistant Attorney General, Criminal Division, Department of Justice
- Edward T. Joyce, Deputy Chief, Organized Crime and Racketeering Section, Department of Justice

MAY 15, 1974

Gambling in the United States is pervasive and exists in forms ranging from sociable games of chance to clandestine and illegal wagers on horseraces and sporting events controlled by large criminal syndicates.

The President, Congress, and law enforcement officials have concluded that illegal organized gambling is the largest single source of revenue for organized crime. Gambling revenues are used to finance the expansion of organized crime into other illegal activities such as narcotics, hijackings, prostitution, and loansharking. This revenue also provides capital for the acquisition of legitimate businesses. Gambling losers often turn to larcenous pursuits or organized crime loansharks in order to pay off their gambling debts. These loansharks often become silent partners in the legitimate businesses of those forced to make deals with them.

In order to protect its gambling income, organized crime spends millions of dollars to bribe and corrupt criminal justice officials. These methods include payoffs to uniformed police officers by numbers collectors, the establishment of pools of money for the benefit of plainclothesmen and detectives by bookmakers and controllers, and payoffs to high-level police officials to protect numbers banks or illegal casinos.

The Organized Crime and Racketeering Section of the Department of Justice completed a study in 1973 in which it projected the percentage of illegal gambling controlled by the organized families across the country. In this study the country was divided into six sections: New York City, the Northeast, Southeast, Middle West, Southwest, and Far West. For each of these areas the Section estimated the amount of gross wagers, the breakdown of these wagers, and the percentage of control by organized crime. The projections were based on a 2-year investigation by the FBI into illicit gambling operations throughout the country for the period of 1971 and 1972.

The Organized Crime and Racketeering Section estimated that the profits generated by illegal gambling operations are between \$7 billion and \$50 billion annually. Gross illegal wagers probably amounted to between \$29 billion and \$39 billion in 1973. Wagers placed on sporting events amounted to 64.02 percent; on numbers or policy, 24.9 percent;

and on horseracing, 10.9 percent. Organized crime groups controlled 41.9 percent of the gross illegal wagers in 1973, with the resulting profits estimated to have amounted to over \$4 billion.

In New York City the Section projected that gross illegal wagers would amount to over \$4.2 billion in 1973. Two-thirds of this total was attributed to wagers placed on sporting events, 22 percent on numbers, and 11.3 percent on horseracing. Organized crime control in these activities was believed to be 50.8 percent of the handle.

The Northeast region generated \$7.4 billion in gross illegal wagers in 1973. Wagers on numbers, sporting events, and horseracing accounted for 50.9 percent, 45.6 percent, and 3.5 percent of this figure respectively. The organized crime groups controlled 55.4 percent of the gross wagers in this area of the country.

Gross wagers in the Southeast amounted to \$5 billion in 1973. Sporting events attracted 65.4 percent of this figure with numbers and horseracing accounting for 28.4 percent and 6.2 percent. Organized crime was thought to control 35.7 percent of gross wagers in the Southeast.

During 1973 gross wagers in the Middle West amounted to just under \$7 billion. Wagers on sporting events accounted for 56.3 percent; numbers, 25.7 percent; and horseracing, 18 percent. It was estimated that 47.4 percent of the \$7 billion was handled by organized-crime-controlled operations.

Projections for the Southwest and Far West were not as authoritative as those made for the other regions of the country because there were fewer Department of Justice Strike Forces operating in those areas. In the Southwest gross illegal wagers amounted to \$1.4 billion, but control by organized crime was placed at only 2 percent of that figure. Sporting events accounted for 88.8 percent of the wagering in 1973 and horseracing attracted 11.2 percent of the dollars waged in the Southwest. Gross wagers in the Far West were estimated to be \$4.6 billion with organized crime controlling 29.2 percent of this total. Wagers on sporting events accounted for 86.7 percent of the handle, and 13.3 percent was projected to be wagered on horseracing.

The Organized Crime and Racketeering Section is responsible for the enforcement of gambling laws at the Federal level. The Section was created pursuant to the Kefauver investigations into organized crime in the early 1950's. The first Strike Force began operation in 1967 in Buffalo, N.Y. These forces consist of high-level representatives from most of the Federal investigative agencies under the control of an Organized Crime and Racketeering Section attorney. Local U.S. Attorneys are also members of the Strike Forces. There are 17 such forces currently

in operation across the country, with three of them in New York City alone. Since the inception of the Strike Force concept, the conviction rate of organized crime members has doubled.

Increased numbers of convictions have decreased the amount of illegal gambling but have increased the percentage of organized crime-controlled illegal gambling operations. The larger layoff operations have been driven into Nevada where they are controlled by organized crime. The major layoff operators, organized crime members and independents, who were in operation 10 years ago, are no longer in business. The amount of illegal gambling has increased since the first Strike Force began operation 7 years ago, but at a slower rate than it would have, had it not been for this active law enforcement.

Until the early 1960's primary enforcement of gambling laws was the responsibility of State and local governments. The Department of Justice was aware, however, that because of corruption and the interstate nature of significant gambling operations, little or no effective attack was being waged against organized illegal gambling activities at the local level. It was in response to this problem that Congress increased the Federal Government's role in gambling enforcement in 1961 and again in 1970.

United States Code Title 18 Section 1952 was enacted in 1961 to prohibit travel across State lines in order to conduct a business enterprise involving gambling, narcotics, liquor, and prostitution as well as bribery and extortion. Section 1953 prohibited the carrying of wagering paraphernalia in interstate commerce. Section 1084 made it unlawful for a person engaged in the wagering business to use a wire communication facility, or to transport information assisting in the placing of bets or wagers.

The enactment of the interstate statutes in 1961 gave the Federal Bureau of Investigation jurisdiction to investigate gambling operations for the first time. As a result of the enforcement activities of the FBI, there are very few, if any, illegal gambling casinos presently in operation across the country. The Bureau has had great success in obtaining convictions through the utilization of wiretaps. In 1973 there were 212 convictions under Section 1955, most of them based on information received through wiretaps. Because of the Giordano decision in 1974, however, 60 indictments involving 600 defendants had to be dismissed due to the improper fashion in which the wiretaps used in the investigations of those cases were authorized.

Up till 1968 the Internal Revenue Service conducted investigations of intrastate gambling violations through the imposition of the wagering excise tax and the Occupational Tax Stamp, Sections 4401 and 4411 of the Internal Revenue Code of 1954. The wagering tax statute required a

gambler to purchase a tax stamp and to register. This registration would then be made public, and that person held in violation of that State's antigambling laws. The Supreme Court held in the Marchetti-Grosso decision that the gambler could refuse to register. This refusal to register did not have to take place at the time he was required to register, but the defendant could interpose the 5th amendment privilege as a valid defense at the time of the trial. This 1968 decision effectively prohibited any further wagering tax prosecutions and caused the dismissal of some 1600 prosecutions for gambling by the IRS. The wagering tax provisions were not declared unconstitutional, however.

Subsequent to the Marchetti-Grosso decision which stripped the IRS of its power to investigate intrastate gambling operations, Congress enacted Sections 1955 and 1511, U.S.C. Title 18. Section 1955 prohibited five or more persons from engaging in a gambling business in violation of State laws if that business handled in excess of \$2,000 per day for periods of 30 days or longer. Because it was apparent that intrastate gambling activities thrived where there was corruption in the local criminal justice system, Section 1511 was enacted to make such interference with local gambling investigations a Federal offense.

In response to questioning from Senator Cannon, Mr. Dogin stated that the purpose of the wagering tax registration provisions was to assist in combating unlawful gambling activities and to raise revenue. These IRS provisions, Title III surveillance, and Section 1955 have provided the Department with the tools necessary to deal effectively with illegal gambling operations. The Justice Department has estimated, however, that their investigations have been able to reach only 2 percent of the illegal gambling activity in the country. The problem does not exist with the present statutes, but with the way in which these statutes are handled in the courts. Many Federal judges in certain areas of the country do not impose the prescribed sentences for gambling violations, but rather hand down suspended sentences or minimal fines. This situation occurs because of a number of factors, including the severe backlog of cases pending in the courts, the significance of community attitudes toward gambling offenses upon the sentencing practices of some judges, and the lack of awareness among these judges and the public at large to what the Department feels is the relationship between gambling and other organized crime activities

The Department emphasized that the public must be made aware of this relationship. Sentencing practices could become stricter and more uniform if the level of public apathy were decreased and the level of consciousness among the judiciary and law enforcement officials heightened to a greater extent than it appears to be at the present time. It is the opinion of the Department of Justice that there is a correlation between the lightness of the sentences imposed and the level of enforcement activity to the volume of illegal activity in a particular area. The

Department is convinced that the major gambling operations are under the control of organized crime groups and for this reason the Department believes that vigorous law enforcement activity is necessary if the problem of illegal gambling is to be controlled.

Effective local prosecution of illegal gambling remains a problem in many States which lack the statutes and techniques necessary to combat organized gambling operations. The States should emulate the Federal antigambling statutes and practices in combating illegal gambling activities. The solution to this problem is through enforcement and not legalization. The brunt of the law enforcement effort has to be on the part of State and local law enforcement officials. It is they who know who the operators are, and where they are located. It is unrealistic to believe that the Federal Government can cure any single law enforcement problem.

State and municipal licensed and authorized gambling activities such as lotteries or OTB have not made a dent in the volume of illegal gambling activities where they coexist. The Department could not make recommendations concerning the partial legalization of gambling as that is a question solely within the jurisdiction of the States and municipalities that believe that such action could adversely affect the illegal gambling activities in their areas.

It is impossible for a State to compete with the illegal bookmaker. The State could never operate on the same margin as a bookmaker, offer credit to its clientele or accept wagers over the telephone, withhold winnings from Federal taxation, or lay off the larger wagers placed on sporting events.

If a State decides to legalize different forms of gambling, it greatly compounds the problems involved in prosecution and sentencing practices. Successful prosecutions of gambling defendants would be increasingly difficult to accomplish within those States where gambling has been partially legalized.

Since 1970 the Justice Department has had the power to use civil remedies in the area of illegal gambling. Title 18 Section 1964 permits the use of injunctive relief by the Federal Government to enjoin an illegal gambling business. The first such test case began in Chicago in February 1974. A district court judge has ruled that the statute is constitutional, and the Department is currently attempting to take testimony from illegal gamblers who to date have refused to testify. This unique gambling prosecution is now at the contempt-of-court stage. The Strike Force in Chicago has told the Justice Department that the gamblers in that community are concerned about the ramifications of civil remedies.

Information received through Title III surveillance may be used by the IRS or other Federal investigative agency in civil proceedings once

this information has been made public at the conclusion of the criminal trials in which this information was used as evidence. The IRS may then use this evidence in civil proceedings that may arise from the preceding criminal investigation. It is the sole purpose of the Justice Department, however, to utilize a grand jury for the purpose of investigating the possible commission of a Federal offense. Grand juries are not used to make a civil tax case against a defendant.

As long as there is a desire on the part of the public to gamble, and there is a profit to the operators, the best the Department of Justice and other enforcement agencies can do is control gambling. The Federal effort probably could never be increased to a point that would effectively destroy illegal gambling in this country. All the Department can do is to make a maximum effort within its capabilities.

Until the facts about illegal gambling are made known to the average citizen, it will be difficult for them to accept gambling as a legitimate problem and for judges to sentence convicted gamblers so as to deter illegal gambling operations.

JUNE 26, 1975
WASHINGTON, D.C.

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TESTIMONY OF:

- William V. Cleveland, Assistant Director, Special Investigative Division, Federal Bureau of Investigation

JUNE 26, 1974

FBI jurisdiction in gambling cases began in 1961 when Congress enacted three statutes banning interstate transportation in aid of racketeering, interstate transportation of wagering paraphernalia, and interstate transmission of wagering information.

The findings of several legislative and executive studies had concluded that gambling bankrolls the rest of the underworld's empire and that legislative, judicial, and police corruption is an inevitable consequence of unchecked gambling operations.

To date, FBI investigations under the three 1961 laws have resulted in more than 1,800 convictions and some \$2,900,000 in fines. It is difficult to say that enforcement of these laws has checked the growth of organized gambling, but the Bureau feels that the situation would be much worse if they had not been implemented. Prior to 1961, most gambling investigations were conducted by State and local law enforcement agencies that did not possess the experienced personnel or the facilities to handle complex gambling investigations.

The jurisdiction of the Bureau was further expanded by the Organized Crime Control Act of 1970 to include large-scale intrastate violations which local authorities could or would not prosecute. Title VIII of this act laws local gambling operations meeting certain minimum specifications and grants the FBI jurisdiction over bribery of State and local officials when such bribery is connected with a violation of this statute. This act has resulted in over 1,600 convictions, \$1,600,000 in fines, and confiscations valued at more than \$10,800,000.

The most effective weapon in dealing with organized gambling is Title III of the Omnibus Crime Control and Safe Streets Act of 1968, which provided for the use of court-approved electronic surveillance in the investigation of specific violations. Syndicated gambling rings could not exist without extensive telephonic connections; therefore Title III surveillance has proven to be invaluable in combating organized crime in this area.

Court-approved electronic surveillances in FBI cases have led to some 3,000 arrests, over 2,000 convictions, and confiscations valued at more than \$7 million.

During a period from January 1, 1966, through December 31, 1973, the Bureau has investigated 5,650 gambling cases (including 9,213 individuals), with 724 resulting in indictments and 1,978 being referred to local authorities.

Sports bookmaking was found to be the most extensive type of gambling operation, with horse bookmaking second. These two types of operations made up over three-quarters of the 724 indictments, with numbers rings, casino-type gambling, and miscellaneous operations accounting for the remainder.

There is no accurate way of ascertaining the progress being made in the fight against organized gambling. The number of convictions is an inadequate indication because of the disparity of sentencing practices and the difficulty of convicting the higher echelon racketeers. An accurate estimate of the "handle" is impossible to determine and is no indication of the mob's overall threat to society at large.

FBI experience has shown that the only way to evaluate organized crime's accomplishments in this area is to develop an intelligence system that identifies the underworld leaders, the scope of their activities, spheres of influence, and sources of income, so that short- and long-range effectiveness can be measured. The Bureau targets its investigations toward the top of the gambling operations and not at the "Mom and Pop" type enterprises. This has resulted in a rising rate of convictions of key gambling figures, which has the effect of diluting underworld leadership and impairing its morale. It is the belief of the FBI, however, that it is impossible to eradicate gambling completely.

The FBI does not attempt to pass judgment on the moral aspects of gambling nor on the pros and cons of revenue benefits to the State governments from the taxation of legalized gambling, but it does not believe gambling is a "victimless" crime. Gambling and violence are often inseparable, as competition is never tolerated. Gambling conceals vast amounts of money from taxation and family budgets. It leads to more serious crime: i.e., loansharking, robbery, and burglary. Silent victims of gambling fear that assisting law enforcement will mark them for gangland retaliation.

The FBI has found no discernible rise or fall in the rate of gambling in those States that have instituted legal lotteries. States could not offer credit, exempt winnings from taxation, or handle the volume of day-to-day betting with the same efficiency and expertise as organized crime does now. The spread of crime as a result of gambling losses would also not be affected by the decriminalization of gambling.

It is, therefore, the position of the FBI that more public awareness of the true situation of gambling would help a great deal in fighting the growth of gambling and its subsequent influences.

TESTIMONY OF:

• Ashton Hardy, General Counsel, Federal Communications
Commission

JUNE 26, 1974

The Federal Communications Commission's responsibilities in connection with the broadcast of lottery information are derived from Section 1304 of Title 18, United States Criminal Code. This statute prohibits the broadcasting of any advertisement or information concerning lotteries, gift enterprises, or similar schemes offering prizes dependent on lot or chance. The Commission is authorized to revoke licenses, issue cease and desist orders, or assess monetary fines up to \$10,000 for violations of this section by broadcast stations. The power of enforcement is under the jurisdiction of the Department of Justice, with which the Commission regularly coordinates its actions in this area.

Until the middle 1960's, FCC involvement with violations of 1304 was limited to scattered instances of product promotions involving contests or merchandise "give aways." Since the inception of the New Hampshire Lottery in 1964, however, the Commission has increasingly been drawn into problems created by the conflict between the operation of State lotteries and the provisions of 1304. The Commission adheres to the view that the question of the propriety of promoting lotteries on broadcast media is a legislative policy determination properly reserved to Congress and, therefore, it has no alternative but to apply the law in whichever way it is interpreted by the courts until it is amended or qualified.

The House Judiciary Committee is studying H.R. 6668 and other similar bills that would permit the transportation, mailing, and broadcasting of lottery information and advertisements. The FCC has taken no position on these bills but would defer to the judgment of the Department of Justice, which generally favors enactment of H.R. 6668.

The legislation to which the Commission is addressing itself would authorize a broadcast station in a community in a State in which a State lottery is legal to announce information concerning that lottery and the results of other State-controlled lotteries if it wished to do so. It would continue to prohibit a broadcast station located in a State that does not operate a lottery to broadcast any lottery information. Stations whose signals cross a State line into a State where there was no legal lottery would not be prohibited from broadcasting such information as it would be unfair to that station and impossible to enforce. The FCC could not at the time of the hearing take a position as to the future legality of broadcasting this type of information across State lines. Those provisions of H.R. 6668 would be in conflict with Title 18, Section 1084 of the U.S. Code, which forbids the interstate transmission of wagering information, the exception being the broadcasting of this

information from a State in which a lottery is legal into another State that operates a lottery.

The Commission's present approach to the broadcast of lottery information is primarily based on the Commission's Supplemental Declaratory Ruling, adopted in 1964 pursuant to a decision by the Second Circuit Court of Appeals. That decision held that Section 1304 only prohibits the broadcasting of lottery information that "directly promotes" a lottery.*

In a 1971 ruling, the Commission ruled that the broadcasting of a winning number in a State lottery, even if in the form of a news report, constituted a direct promotion of a lottery which would be in direct violation of 1304. This ruling, however, was reversed by the Third Circuit Court of Appeals in 1974. The court ruled that news broadcasts were protected by the first amendment and thus were exempted from the prohibitions of the statute. The Third Circuit decision did not dispute the "directly promoting" aspect of the decision of the Second Circuit, but ruled that even if a newscast directly promoted a lottery, if it constituted news and not mere advertisement it was beyond the reach of 1304.

The Commission and the Department of Justice petitioned the Supreme Court to review the Third Circuit's decision, and the Court has accepted certiorari in the case. The primary basis of the petition was to rectify the conflict between the Third Circuit's decision and the "directly promoting" standard previously established by the Second Circuit. This would establish uniform guidelines for the FCC and its licensees to follow. The Commission and the Department of Justice believed that the Third Circuit's decision had erroneously declared a portion of 1304 unconstitutional.

* 18 U.S.C. 1307 (enacted January 2, 1975) permits the broadcasting of lottery information and lottery advertisements over stations within the lottery State's boundaries and over stations located in adjacent States that also have lotteries.

TESTIMONY OF:

- John D. Tarpey, Assistant Chief Inspector for Crime Investigation, United States Postal Service

JUNE 26, 1974

Use of the mails by lotteries was first prohibited by Congress in 1868. In 1872, Congress made it illegal to mail letters or circulars concerning illegal lotteries. The law was made applicable to all lotteries in 1876, when the word "illegal" was removed from the statute. The Anti-Lottery Act of 1890 barred all lottery materials from the mails, prohibited the sending of checks and money orders for the purchase of tickets, and prohibited the mailing of letters containing lottery advertisements. Violations were made punishable by imprisonment as well as fines, as provided by the 1876 law. The 1890 act was immediately enforced, and it effectively put the corrupt Louisiana State Lottery out of business.

The Postal Inspection Service, as the law enforcement agency of the U.S. Postal Service, has been enforcing this law--Title 18, U.S. Code 1302--ever since. Section 1302 makes it a felony to mail proscribed material in connection with the operation of a lottery. Foreign-based lotteries such as the Irish Sweepstakes are checked by the stop-order and mail stop provisions of administrative statute, Title 39, U.S. Code 3005.

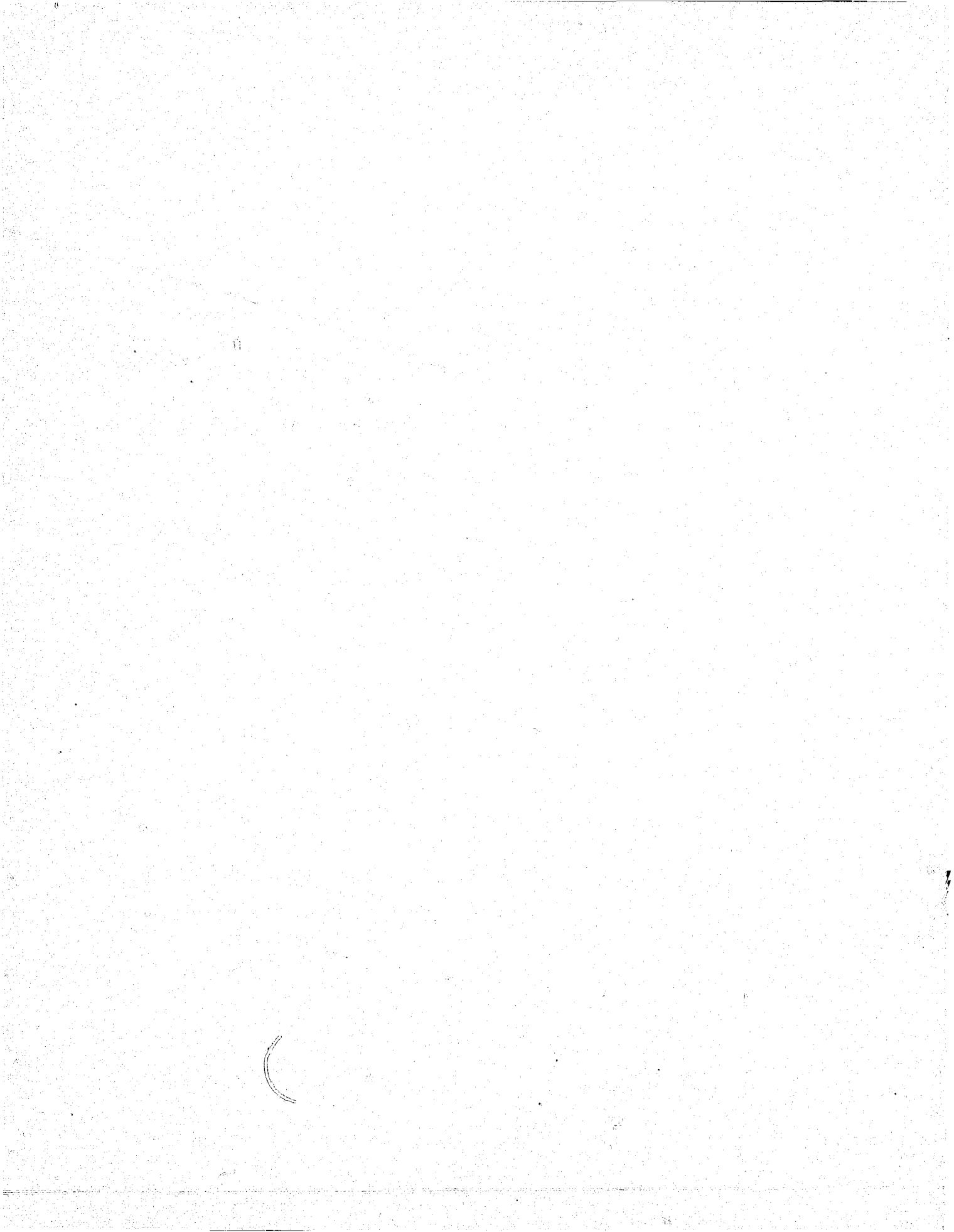
Since 1965 there have never been less than 200 lottery investigations in any year. The relationship between the increase in the number of legal lottery operations and the gradual decrease in illegal lottery investigations during this period is only conjectural.

A 1973 investigation of State lotteries by the Postal Inspection Service found that in all but one instance Section 1302 of Title 18 has been violated. Lottery officials disavowed any intent to violate the statute, but interpreted it in a manner to permit some use of the mails in the lottery operation. Main counts were made at the headquarters of three State-operated lotteries in March 1974. In one State, 70 percent of the mail received bore out-of-State postmarks from almost every State in the country.

Violations of the lottery statute by legal lotteries have been investigated by the Postal Inspection Service and the facts presented to United States Attorneys in those States for consideration of possible prosecution. Prosecution was declined in 1973 in Michigan, New Hampshire, and Pennsylvania. The United States Attorney in Massachusetts has not yet indicated his intention whether to prosecute.

Many newspapers whose circulation crosses State lines print lottery advertising and list winning numbers, in clear violation of Section 1302. It is the policy of some newspapers, however, to publish separate editions without this information for those who subscribe by mail. None of the newspapers that do not make this provision has been prosecuted, and no such action is being considered by the Department of Justice.

Under current laws, the operation of the State-controlled lotteries is free from corruption and presents no serious problem to the Postal Service. They seek only to direct the enforcement of the law against those who are profiting by a lottery and not against those who are technically violating the law by using the mails as subscribers; the latter are victims of a lottery. The Postal Inspection Service investigates 11,000 fraud cases a year, of which only 200--or less than 2 percent--deal with lotteries. There would be cause for concern by the Postal Service only if those State lottery laws are changed, or abuses were found in those laws to corrupt the legal lotteries, and the States were given carte blanche to compete with one another.



- Ralph F. Batch (Illinois Lottery) 30
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TESTIMONY OF:

• Ralph F. Batch, Superintendent, Division of State Lottery
State of Illinois

NOVEMBER 19, 1974

Current Federal laws prevent the residents of the States where lotteries are duly authorized from disseminating necessary information through both radio and television, and thus inhibit the State's ability to realize the full potential of the lottery. Rather than promoting increased revenues, Federal laws cause State-run lotteries to expend extra funds to comply with the existing statutes. The Illinois Bureau of State Lotteries urges the Commission on the Review of the National Policy Toward Gambling to consider the ramifications of this legislation as it applies to intrastate activities as well as to interstate rights, and to consider whether the penalties in any such statute should be civil or criminal.

It is the firm belief of Illinois that some bill must be passed in this session of Congress that would: (1) give State-run lotteries intrastate flexibility in the use of mails, radio, and television; (2) give lottery States the ability to reply legally by mail to out-of-State requests (Superintendent Batch noted, however, that soliciting by mail across State lines should be prohibited); (3) allow Illinois to use any radio and television station located within the State both to discuss and to advertise the lottery; (4) remove the current criminal penalties and make all remedies civil; and (5) lift the unreasonable Internal Revenue Service provisions that take dollars from already depleted State treasuries and give back to the States the right to raise revenues in ways they see fit.

TESTIMONY OF:

- Christo Anton, Executive Director, Maine State Lottery Commission

NOVEMBER 19, 1974

The Maine State Lottery Commission strongly urges Congress to amend germane Federal statutes to pose fewer restrictions on State-run lotteries, and to allow the lotteries to conduct their business as any other bona fide business may do. Thus, if lotteries are businesses, free use of radio and television in States and from States in which the lottery is legal should be permitted.

Hundreds of thousands of dollars in needed State revenue were not collected in Maine because of a possible misinterpretation of the Federal statutes by a representative of the Justice Department. Because of the unfavorable publicity surrounding this incident, the citizens of Maine have come to suspect the legality of their lottery. Clarification of these statutes is imperative. Restrictive Federal legislation must be amended.

The Maine State Lottery Commission believes that the fairest way of deciding the people's will is by referendum, and that the Federal Government should not disenfranchise those who saw fit to vote for a lottery in their various States. The citizens of the United States could be better served if more time were spent seeking out and ending the illegal gambling in this country instead of enforcing antiquated lottery laws.

TESTIMONY OF:

● Stanley S. Fine, Director, Maryland State Lottery Agency
NOVEMBER 19, 1974

Present Federal law does not recognize the right of a State to conduct its lawful business without undue Federal regulation or interference. The main objective of a State lottery is to provide a source of revenue. In effect, it is a government-sponsored business rather than another bureaucracy, and as such should have the same marketing opportunities as any other business.

The recently enacted H.R. 7780 reduced the 10 percent excise tax to 2 percent and increased the annual occupational tax from \$50 to \$500. Maryland is opposed to all such taxes for State lottery operations.

Current legislation addresses itself to the problem of State lotteries. H.R. 6668 includes exemptions for lotteries authorized or licensed by a State as well as for State-operated lotteries. Maryland is opposed to this amendment, preferring that State-conducted lotteries be considered separately from other lotteries. In addition, H.R. 6668 basically allows the use of mails, radio, and television within the lottery State for promotional purposes. The Maryland State Lottery Agency proposes that H.R. 6668 and similar bills be broadened to permit mailings concerning legally operated State lotteries in response to written requests from outside the State.

Finally, concerning H.R. 6668 and its treatment of 18 U.S.C. 1304, the Maryland State Lottery Agency proposes language that would permit the State access to radio and television stations in Washington, D.C. in order that service to the Maryland communities surrounding Washington can be provided.

TESTIMONY OF:

- Russell W. Shannon, Legal Counsel, Massachusetts
State Lottery Commission

NOVEMBER 19, 1974

The Massachusetts State Lottery Commission strongly supports legislation to amend present Federal laws that restrict the operation of State lotteries and impose tax burdens upon them. The Commission believes that State agencies should be exempt from paying all forms of Federal wagering taxes, and is opposed to the imposition of withholding taxes on lottery winnings.

Of the legislation concerning lotteries that has thus far been introduced in Congress, Massachusetts endorses H.R. 6668 and S. 544, bills that would permit State lotteries to make free use of the mails, radio, and television within their borders, to obtain needed supplies and tickets from other States and nations, and to advertise in newspapers published within their borders. Massachusetts also supports the suggestion by the U.S. Department of Justice that H.R. 6668 be modified to permit the transmission of State lottery tickets, materials, and advertising into any other State where these materials are legal. The Massachusetts State Lottery Commission further believes that the recent amendment to H.R. 6668, which accords private lotteries that are authorized and licensed in conformance with State law the same treatment as State lotteries, is appropriate as a further means of permitting States to regulate gambling as they deem proper.

The Massachusetts Lottery favors the concept of regional lotteries established by compacts among the various States, as the creation of these lotteries would lead to greater efficiency in lottery operations.

TESTIMONY OF:

• Gus Harrison, Commissioner, Michigan State Lottery
NOVEMBER 19, 1974

The economic situation in Michigan is changing rapidly for the worse. Because of this situation, the revenue derived from the Michigan State Lottery is necessary for the State and its citizens.

Michigan does not feel that the Federal Government has the right to discourage, through lottery restrictions, States that are trying to improve their financial condition. The Federal Government, at the very least, should avoid interfering with or discriminating against attempts by States to solve their own financial problems.

If the Michigan Lottery is going to remain healthy, immediate remedial legislation is essential. The State endorses S. 1186, which would permit State lotteries to deal in interstate commerce and to use the electronic media for promotion, and would remove criminal sanctions against lotteries. Michigan believes that S. 1186 is the most comprehensive and corrective piece of legislation introduced thus far.

TESTIMONY OF:

• Edward J. Powers, Executive Director, New Hampshire
Sweepstakes Commission

NOVEMBER 19, 1974

Present outmoded Federal restrictions must be removed in order that State-operated lotteries might be established as an accepted consumer business. To amend these laws in piecemeal manner will leave a reservoir of confusion and hypocrisy. For these reasons the New Hampshire Sweepstakes Commission prefers such bills now before Congress as S. 3524 and 547, and H.R. 15639, 15640, and 13130, rather than those bills that permit the use of mails, radio, and television, or the transportation of tickets only within States where the lottery is legal.

Concern has been expressed over protecting nonlottery States from the promotional activities of lottery States. It is possible to accomplish this objective, at least in part, by one of two means: (1) lottery States could voluntarily agree not to advertise or solicit in nonlottery States; or (2) this activity could be prohibited by statute.

The New Hampshire Commission urges Congress to clarify the confusion that exists in regard to the excise and occupational taxes. The Internal Revenue Service originally supported legislation to exempt State lotteries from the provisions of the excise tax statute, but that legislation apparently was sidetracked following a disagreement between the lottery States and the U.S. Treasury Department. Without consultation with the lottery States, Treasury Secretary William E. Simon recommended to Congress that a 20-percent withholding tax be imposed on lottery winnings of \$100 or more. The New Hampshire Sweepstakes Commission vigorously opposes this type of legislation.

New Hampshire does not see the need for a regional lottery. It is unrealistic to think that different State legislatures could readily agree on a basic program. Furthermore, to maintain efficiency and public interest, it is important to keep the lottery programs close to the people.

Finally, the New Hampshire Sweepstakes Commission believes that taxpayers should be given the opportunity to decide for themselves--by referendum--what they want done for their benefit.

TESTIMONY OF:

- Charles C. Carella, Executive Director, New Jersey State Lottery Commission

NOVEMBER 19, 1974

The New Jersey Lottery Commission endorses H.R. 6668 and other comparable bills that would permit State lotteries to use the public media for promotional purposes. A continuation of present policy, which substantially limits the ability of lotteries to disseminate information, can only work to the direct benefit of the illegal game.

New Jersey envisions lotteries not only as revenue-raising devices but as a method of combating organized crime by legalizing one of its major sources of income. It believes that present Federal restrictions severely hamper this effort. (A State-operated numbers game, scheduled to begin in the spring of 1975, is another attempt to attack organized crime.)

Positive action must be taken to reassure the public that it is legal to purchase a lottery ticket. To that end, New Jersey strongly concurs with the U.S. Attorney General's suggestion that Federal legislation be enacted to exempt State-operated lotteries from the criminal provisions of Title 18. New Jersey also believes that it must be determined quickly whether Federal excise tax laws (Section 4402 of the Internal Revenue Code of 1954) apply to wagers made in State lotteries.

Congress has passed and the President has signed into law H.R. 7780, which would increase the occupational tax from \$50 to \$500 a year. The adoption of this revenue ruling would subject the New Jersey Lottery to a tax equivalent of about one-fifth of its net revenue, substantially decreasing the amount that can be made available for State education and institutions. Prompt Federal action is needed to exempt State lotteries from this occupational tax. Legislation also is needed to exempt State lotteries from the proposed excise tax and to prevent enactment of a withholding program.

The people of New Jersey voted to have a State lottery. They expect the State to operate a lottery that is honest, has popular prizes for the participants, and produces revenue for State aid to education and institutions. They have a right to expect that the Federal Government will not hamper the operation of the lottery or the distribution of information about lotteries to the participants and that it will not tax revenue raised for legitimate State purposes.

TESTIMONY OF:

• John E. Kirkland, Executive Director, Ohio
Lottery Commission

NOVEMBER 19, 1974

In spite of its stringent adherence to legal requirements, Ohio is now confronted by a statement by the U.S. Attorney General that suggests that criminal statutes may apply to the lottery States. This aura of doubt has had an obvious negative effect on public acceptance of the lottery. It is the belief of the Ohio Lottery Commission that modern, State-operated lotteries, created by constitutional amendment as was done in Ohio, should not be subject to Federal statutes appropriate to illegal games run by the private sector.

The existing and suggested barriers of Federal legislation militate against the growth and efficiency of the Ohio Lottery. If the lottery is to continue successfully, immediate relief is essential.

The Ohio Lottery Commission endorses S. 3524, which would provide this relief and would minimize any future losses of revenue to the State. This bill incorporates all of the features of H.R. 6668 and addresses with more certainty the use of the mails.

Ultimately, Ohioans desire even broader reform. Like other lottery States, Ohio hopes to see all Federal barriers removed from operation of State lotteries. At a time when income is sorely needed by the States, and in an era when the Federal Government has embraced the philosophy of revenue sharing with the States, the need for remedial legislation is clear and urgent.

TESTIMONY OF:

- Henry H. Kaplan, Executive Director, Bureau of State Lotteries, Pennsylvania

NOVEMBER 19, 1974

The Pennsylvania Bureau of State Lotteries has afforded what has proved to be a popular and enjoyable means for its residents to participate legally in a lottery and a means to ease tax burdens on the State's senior citizens.

The public could receive many more benefits if archaic broadcast and mailing restrictions were removed. Pennsylvania also might be able to accomplish its goal of controlling some of the money presently being channeled into organized crime if restrictive Federal statutes were eradicated.

Pennsylvania recognizes as reasonable and proper a prohibition on the use of mails for the interstate transmission of lottery tickets and for lottery sales or promotional materials into States that do not permit lotteries, as well as betting in those States on lotteries of other States. It acknowledges the right of each State to set its own policy concerning lotteries.

The Pennsylvania Bureau of State Lotteries believes that the reasons that prompted the passage of the Federal legislation in the last century are no longer applicable today. A review and modification of these stultifying laws is one that warrants favorable consideration. Insofar as the legislation in question does curtail illegal activities and organized crime, it should remain unchanged, but, to the extent that it inhibits an activity of a State-sanctioned lottery, which could advance the goal of curbing illegal gambling, it should be changed.

TESTIMONY OF

- Major Peter O'Connell, Director, Rhode Island Lottery
- Bernard C. Gladstone, Legal Counsel, Rhode Island Lottery

NOVEMBER 19, 1974

The Rhode Island Lottery was enacted by an overwhelming plurality of votes that overrode a constitutional ban on lotteries, by two legislative sessions, and then by more than 70 percent of the voters in a referendum.

Rhode Island strongly suggests that all present Federal statutes that impinge in any way upon the freedom of State-created lotteries to operate as autonomous business enterprises be abrogated. Furthermore, no specific excise or occupational tax should be imposed on the lottery because it is no different from any other business enterprise.

It should be recognized that Title 18 of the United States Code in no way applies to Rhode Island or any other lottery State. For this reason, Rhode Island asks that proposed bills, especially those proposed by Senators Schweiker and Hart, be adopted. These bills are broad in scope and, in effect, abolish the criminal code as it affects the State.

The Rhode Island Lottery believes that the amendment to H.R. 6668 could be misconstrued. It is possible that individuals other than autonomous agencies of the State could be licensed under the language of this amendment, and this is not the intention of the lotteries now in existence.

In conclusion, Rhode Island feels that it is incumbent upon the Commission on the Review of the National Policy Toward Gambling to recommend changes in the Federal laws where necessary to give full recognition and complete freedom to the State-created lotteries.

STATEMENT SUBMITTED BY:

• Eugene G. Auen, Director, Delaware State Lottery Office
NOVEMBER 19, 1974

Delaware is opposed to the amendment to H.R. 6668, which espouses "Including a lottery authorized or licensed by a State in addition to a State-conducted lottery." Delaware believes that this amendment would weaken the position of the lottery States if privately operated lotteries were included, and would provide ammunition to those who would use the example of the 19th century Louisiana Lottery as a reason to vote against this bill.

The Lottery Office of Delaware is further opposed to the proposed change in the excise and occupational taxes to State lotteries, on the ground that the \$500 occupational tax, in particular, would be disastrous, if not fatal, to the Delaware State Lottery.

STATEMENT SUBMITTED BY:

- John F. Winchester, Executive Director, Lottery Division
Commission on Special Revenue, State of Connecticut

NOVEMBER 19, 1974

If State-sanctioned lotteries are to perform the function for which they were intended, legal lotteries cannot be constrained by antiquated and archaic laws.

Connecticut urges Congress to eradicate all outdated lottery laws. Connecticut is particularly opposed to the excise and occupational taxes. The Commission on Special Revenue cannot rationalize the objective of such arbitrary taxes because they will not raise any significant amount of revenue for the Federal Government but, rather, will decrease tremendously the amount of money going into State treasuries. In Connecticut nearly 60 percent of the lottery sales agents sell fewer than 250 tickets a week, and earn approximately \$325 a year. An occupational tax of \$500 would immediately eliminate these agents. If the State were to assume the responsibility for paying this tax for these agents, it would further reduce the revenues the lottery is now providing the State and would increase the cost of operations as well, thus reducing the contribution to the citizens of Connecticut.

The Connecticut Commission on Special Revenue believes that the 13 States that now have legalized lotteries (representing approximately 40 percent of the population of the United States) offer a significant indication that the lottery concept is a legitimate and successful means of raising revenue. The time for revision of Federal legislation is now, before legal lotteries are completely handcuffed by archaic law.

STATEMENT SUBMITTED BY:

- Ronald Maiorana, Commissioner of Wagering Systems, New York State Racing and Wagering Board, on behalf of the New York Lottery

NOVEMBER 19, 1974

New York wholeheartedly encourages congressional efforts to exempt the State lotteries from antigambling restrictions.

On October 23, 1974, New York Commissioner Ronald Maiorana sent a telegram to President Gerald R. Ford, urging him to veto H.R. 7780, legislation carrying an amendment that could be interpreted as requiring an annual \$500 tax from all State-licensed vendors of lottery tickets. The President signed the measure, however, and now, in addition to all the other restrictions, lottery States will have to await a legal ruling on whether the measure applies to those persons in the various States who sell lottery tickets.

New York strongly objects to efforts to impose a Federal withholding tax on lottery winnings. Such an action could cause a breakdown of the entire lottery system. It is in the interest of both the Federal and State governments to move forward together to permit the legal raising of funds without hindrance. State-operated lotteries fully accountable to the public should not be discouraged or restrained from fulfilling their various potentials within reasonable guidelines and with proper respect and sensitivity to those States that are opposed to lotteries.

NOVEMBER 20, 1974
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TESTIMONY OF:

- Duncan Wright, President, American Dog Owners Association,
Sacramento, California

NOVEMBER 20, 1974

The American Dog Owners Association undertook a detailed investigation of dogfighting in the United States in mid-1971. This investigation showed that at present, the major centers of dogfighting are California, Texas, New York, Florida, and Illinois.

Generally, those involved in dogfighting can be divided into four categories:

1. Individuals who breed, raise, train, and fight dogs. These individuals may also gamble.
2. Individuals who train and fight dogs purchased from others and who may gamble.
3. Individuals who do not breed or fight dogs, but who participate in the activity as a means of gambling.
4. Individuals who promote and stage dogfights for the purpose of profit from admission fees, gambling, selling of alcoholic beverages, prostitution, and other activities.

The level of organization within the dogfighting community varies from highly localized events with little formal structure to highly organized conventions. The structure of the gambling activity tends to parallel these levels--varying from completely unstructured, free-for-all gambling to operations where the betting is against the house. The latter implies a well-organized activity.

Within the past 30 years there has been an increase in the frequency of dogfights, in the number of people involved, and in the peripheral activities. The American Dog Owners Association believes that the primary causes of this increase are: (1) weak State and local laws; (2) a tendency to relegate raids on and arrest and prosecution of dogfighters to animal control or humane officers; and (3) an almost complete lack of interest on the part of law enforcement officials in either dogfighting or the related illegal activities.

The association believes that dogfighting could not exist to any substantial degree were it not for the gambler. Dogfighting would not exist to any substantial degree if law enforcement would pay attention to it.

The association believes that there is a necessity to make the interstate activity in fighting dogs illegal under Federal law. Of equal importance is the necessity for the enforcement of existing laws related to gambling. Also, the Animal Welfare Act should be amended to prohibit those aspects of dogfighting appropriate to Federal jurisdiction.

TESTIMONY OF:

• Bernard Carey, Illinois State's Attorney, Chicago, Illinois
NOVEMBER 20, 1974

The Illinois State Attorney's office began an investigation into illegal dogfighting activity on August 16, 1974. This investigation is continuing before the Grand Jury of Cook County, Ill. However, since dogfighting is not confined to Cook County, Federal legislation is needed to curb this activity. This problem cannot be effectively handled at the State level because events and promoters shift from State to State, and the penalties provided by State laws are not adequate to deter violators.

Criminal penalties of up to one year in prison and a fine of up to \$25,000 should be imposed for anyone convicted of transporting dogs across State lines or international boundaries to promote or attend a dogfight, and/or using the mails to further dogfighting. In addition, enforcement of this proposed legislation should be delegated to the U.S. Attorney General because of the criminal nature of those suspected of dogfighting activities. The Attorney General and the FBI are far better equipped than the Department of Agriculture to enforce this proposed legislation.

If there is to be a relaxation of gambling laws, there still must be controls on certain activities that are dangerous or wrong in themselves.

TESTIMONY OF:

• Captain Don Lambert, Chief Officer, Law Enforcement Department
Massachusetts Society for the Prevention of Cruelty to Animals
NOVEMBER 20, 1974

Although the sport of dogfighting has always existed in the United States, it has increased significantly in the past few years. The rising frequency of this type of activity and the effectiveness of methods employed by those involved in various enforcement areas can be determined by: (1) Statutes (or lack of them) governing dogfighting; (2) penalties and erratic fines that range from \$3 to \$1,000; and (3) enforcement (or lack of it) of the laws by local enforcement officials.

Based on the lack of adequate statutes in some States and an obvious lack of enforcement in others, the need for Federal legislation is apparent. The most comprehensive bills proposed at this time are S. 4065 and H.R. 17083. Both bills deal not only with dogfighting and cockfighting, but also with the manufacture, sale, and distribution of equipment used in connection with training or fighting activities. Both bills provide for heavy fines which are unrealistic but not harmful. More importantly, both bills provide for the seizure and forfeiture of the animals^s and equipment, similar to a provision in the Massachusetts statutes.

A weakness of these bills, however, is the placement of administrative responsibility with the Department of Agriculture. Sections 5 and 6 of H.R. 17083 should be substituted by an amendment to Chapter 3 of Title 18 as H.R. 16649, which would assign enforcement to the FBI.

The only way to solve the problems of dogfighting and its peripheral activities is by cooperation between State and Federal officials.

TESTIMONY OF:

• Nancy Stassinopoulos, Legal Director, Citizens for Animals,
New York, New York

NOVEMBER 20, 1974

Dogfighting activities are interstate in nature and share many traits of organized crime. These characteristics emphasize the need for Federal legislation enforced by Federal criminal justice authorities. State laws alone are inadequate.

Citizens for Animals, a national lobby for humane laws, would favor Federal legislation that protected all animals and birds but considers it far more important that animal fighting be considered a Federal crime. Therefore it prefers bills such as S. 3985 or H.R. 16649. Although these bills protect only dogs, they do make dogfighting a Federal crime. Citizens for Animals is opposed to H.R. 16738, 17083, and S. 4065 to the extent that these bills relegate enforcement or rulemaking to the Department of Agriculture, implying that violations should be handled as an administrative matter and not as a crime.

In conclusion, Citizens for Animals believes that: (1) Federal legislation should be enacted to prohibit dogfighting that has appropriate connection with interstate commerce; (2) such legislation should be included within Title 18 of the United States Code in order to make clear that it is a crime; (3) cockfighting as well as dogfighting should be prohibited; (4) enforcement should be by the Justice Department and the U.S. Attorneys rather than by the Department of Agriculture, and (5) the penalties should be severe enough to put animal fighting in the category of a Federal felony.

TESTIMONY OF:

• Senator Harrison A. Williams, D-N.J.
NOVEMBER 20, 1974

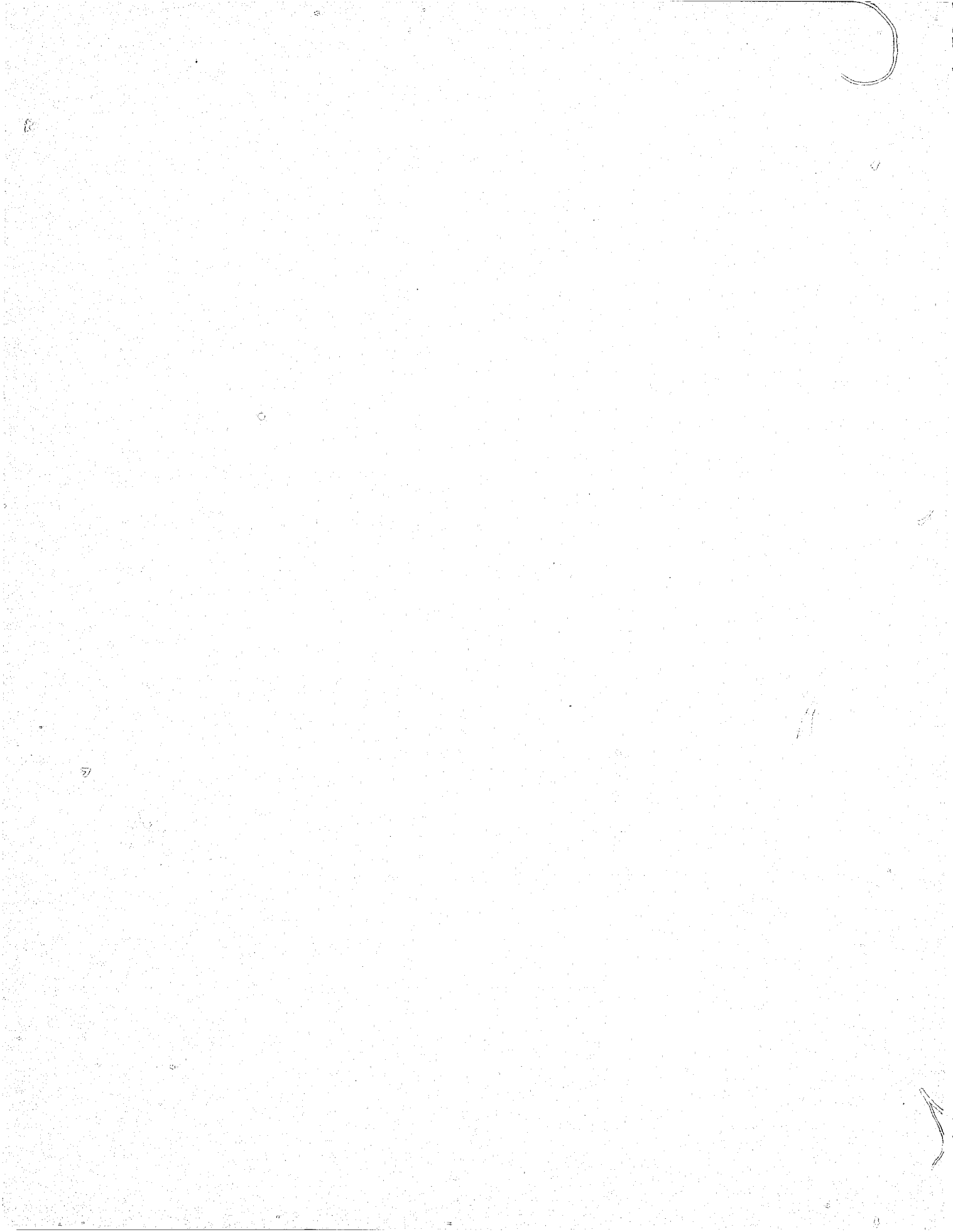
S. 3985 (introduced by Senator Williams) would bring an end to the suffering of animals caused by dogfighting. This bill is uncontroversial enough to facilitate early passage and unambiguous enough to insure adequate enforcement.

S. 3985 would prohibit the use of interstate commerce for transporting dogs trained or intended to be used to fight other dogs and would also make it unlawful to promote or participate in a dogfight. To increase the possibilities of intercepting all those involved in dogfighting, provisions contained in the bills of Senator Magnuson and Representative Foley could be included in S. 3985. These provisions would forbid activities preparatory to a fight, the manufacturing and sale of equipment, the contribution of a locale, and the use of the mails and all other communications systems for promotional purposes.

The secrecy surrounding dogfights virtually excludes the presence of innocent bystanders; thus, attendance should be made illegal. Because of the large amounts of money bet at dogfights, the fine should be raised substantially, but both a fine and a prison term should be reasonable so as not to constitute an excuse for failure to convict. Provisions should also be made for impoundment and confiscation of dogs and equipment. Furthermore, the U.S. Postal Service should be specifically authorized to seize and dispose of promotional materials and equipment sent through the mails.

Thirty-two Senators have cosponsored S. 3985 and at least seven similar bills have been introduced in both the House and Senate. The inclusion of all animals in antifighting legislation might weaken S. 3985. (Senator Williams stated that he would support any effort to insure the humane treatment of animals.)

Dogfighting activities belong under Title 18 of the United States Code, with enforcement delegated to the Department of Justice. In addition, the Postal Service and the Treasury Department could also have enforcement authority in the areas of illegal gambling, alcohol sales, and IRS violations.



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TESTIMONY OF:

- Warren R. Spellman, President, Long Island Committee for Crime Control, Inc., and Chairman of the Board of the National Association of Citizens' Crime Commissions

DECEMBER 4, 1974

(Warren R. Spellman presented testimony on behalf of the Long Island Committee for Crime Control and of the National Association for the Citizens' Crime Commissions, which passed a resolution opposing legalization of gambling, including State lotteries.)

It is not possible for legalized gambling to raise revenue and to fight organized crime at the same time. Should there be a commitment to competing with organized crime, it is highly questionable that much revenue will be drawn from legalized gambling. On the other hand, should the primary purpose of a legalized gambling program be the raising of revenue, there will be little effect on illegal gambling activities. Furthermore, the net effect of a legalized gambling program whose purpose is to raise revenue will be an increase in the activity of and profit to organized crime.

Serious questions must be asked concerning the sources of personnel for State-operated gambling institutions and the security measures to protect the State's gambling institutions from corruption and even from "takeover" by organized crime.

That organized crime will in fact be reduced as a result of legalized gambling must yet be demonstrated. Whether or not such a hope is realistic may be seriously questioned. It is conceivable that the promotion of State-operated or State-sanctioned gambling will generate an entirely new market for organized crime.

The following factors also should be noted:

1. That bingo is the first step in creating a gambling mentality.
2. That gambling laws are unpopular and have never really been enforced due to the more pressing priorities in our court systems.
3. That the legalization of gambling would divert the activity of the police department from gambling into more necessary law enforcement areas.
4. That the spread of legalization has weakened the citizens' respect for law enforcement and its efforts to enforce antigambling laws against still-illegal gambling.

5. That the lottery might be classified differently from other gambling operations.

6. That a government-operated gambling operation extending credit might assist in putting organized crime out of business.

7. That the Federal Government has to maintain some control over those States legalizing gambling, since organized crime is national in scope.

TESTIMONY OF:

• Robert E. Whalen, Executive Councilor, Portsmouth, New Hampshire
DECEMBER 4, 1974

(Robert E. Whalen was a member of the New Hampshire State Senate when legislation to initiate the N.H. Sweepstakes was passed. Mr. Whalen voted for the Sweepstakes bill reluctantly, since he believed, and still believes, that a broad-based tax was needed to carry on some of the State programs, and that the lottery was a poor substitute.)

An impartial look at the Sweepstakes program to date would tend to show that the most feared objections of opponents to the lottery in 1963 were not well-founded. Rather than there being an increase in illegal schemes, the State is relatively free of all illegal forms of gambling. The program has not had a corrupting influence on youth. In addition, based on a survey of the income status of the major winners, the argument that those who can least afford to gamble would be the main supporters of the program does not stand up. There is no evidence that the moral fiber of New Hampshire has been weakened by the passage of the Sweepstakes legislation.

New Hampshire is not spending 85 cents to make one dollar, as was argued during the earlier debates. However, the revenue estimates given by the proponents of the legislation were, in fact, too high at the time of passage. Whether the relief to local municipalities has achieved the degree of success its proponents visualized is hard to judge; however, it is true that \$20 million would have been added to the State's already intolerable local real estate tax burden. It is also true that with the prohibition on the interstate transportation and sale of tickets, the revenue has not come up to expectations.

Present Federal restrictions on interstate commerce should be repealed because if the law cannot be enforced, it is not a good one, whether it concerns gambling, prohibition, or anything else.

TESTIMONY OF:

• Dr. Paul Minus, Jr., Professor of Church History, Methodist
Theological School, Ohio

DECEMBER 4, 1974

The position adopted in 1972 by the 1,000-member governing body of the United Methodist Church should be supported. Its General Conference declared at that time that "organized gambling is a menace to society, deadly to the best interests of moral, social, economic, and spiritual life, and destructive of good government."

One of the arguments frequently voiced in support of the lottery is that since people are going to gamble anyway, why not channel their gambling money in ways that will be socially productive? The fact is that most Americans do not gamble. It is true that people can be induced to gamble, and that is the purpose of the aggressive advertising campaigns developed for State lotteries. This means that it has become a part of governmental policy to attempt to alter the attitudes and behavior of citizens sufficiently to persuade them to buy State lottery tickets.

Lottery advocates have stated that lotteries will undercut the illegal numbers racket and thus deal a blow to organized crime. But most analyses indicate that this hoped-for effect has not materialized. It is not implausible to suspect an entirely different effect from that hoped for by lottery proponents. The likely consequence is that lottery advertising is inducing citizens who previously had not gambled to develop gambling patterns and that, for many persons, the numbers game has proven a more attractive package than the State lottery. New York Times columnist William Safire speculated that "the more new gamblers created by State lottery advertising, the more business [is] done by number-racket ticket sellers."

State lotteries are productive of no significant public good and are actually inimical to the public good. State lotteries:

1. Divert attention from the development of adequate and equitable systems of public financing.
2. Give public encouragement to an exploitative and wasteful lifestyle.
3. Erode citizens' confidence in government.

The State lottery, moreover, puts State government in the position of the huckster who unconscionably attempts to beguile people into ignoring the odds and betting again and again. There is probably no way that government can prevent people from throwing their money away

or from being taken by the sharp operator. But when the government itself becomes a party to this fleecing, there is cause for genuine concern about the public's consequent evaluation of government. It will not be long before growing numbers of citizens echo the recent judgment of Moneysworth newsletter: State lotteries are a "governmental rip-off of the governed."

Present Federal statutes that restrict the operation of State lotteries should be retained and enforced, especially those statutes that impede the spread of lotteries into States that have not already established them. The Commission on the Review of the National Policy Toward Gambling should look seriously at the advertisement practices in which lottery promoters are now engaged. In this realm, too, there must be truth in advertising. It would be desirable if no advertising were allowed at all.

TESTIMONY OF:

- Dr. Harry N. Hollis, Jr., Director of Family and Special Moral Concerns, the Christian Life Commission of the Southern Baptist Convention, Nashville, Tennessee

DECEMBER 4, 1974

Americans cannot afford lotteries: They cost too much; the relatively small financial gains are insignificant compared to the damage done when government gets into the gambling business; and lotteries undermine respect for government, entice new gamblers, and fail to curtail illegal gambling to any significant extent. In addition, those who support lotteries say that these games will take the action away from the criminals, but it is more likely that a new gambling market will be created, and the criminals will still be left with much, if not most, of the action.

Lotteries should be rejected because:

1. They place a heavy burden on the poor who are least able to pay for the tickets.
2. They may become legal devices to whet people's appetites for other, illegal forms of gambling.
3. They are impossible to keep free from abuse.
4. They are based on a philosophy of life that is contrary to that which is best for American society. Instead of encouraging people to work to earn the money they need, the lottery glorifies the instant wealth ideal and teaches that people can live by luck instead of through hard work.

Americans cannot afford to take a chance on lotteries or any other form of gambling that saps people's energy for more responsible and worthwhile activities. Lotteries will not remove the problems of inadequate revenues or illegal gambling, but instead will bring new problems. The government should not be involved in gambling. The best policy for the government to put forth would be that of government denial, because gambling, including lotteries, is unhealthy for society and the common good.

TESTIMONY OF:

- Aaron Kohn, Manager-Director, National Association of Citizens' Crime Commissions, New Orleans, Louisiana

DECEMBER 4, 1974

(Speaking on behalf of the National Association of Citizens' Crime Commissions of New Orleans, Aaron Kohn prefaced his remarks with the NACCC's resolution of November 13, 1974, which called upon all public officials to consider the adverse effect of legalized gambling on the welfare of the American people.)

• NACCC's concern with illegal gambling grows out of its concern with improved competence in government. The NACCC believes that this country has never seriously tried to suppress illegal gambling but instead has ignored it. It continues to do so in regard to some of the matters that have been presented to Congress by the powerful lobby that has come into being as a result of the growing number of State-operated gambling enterprises.

If the United States desires to control illegal gambling as the taproot of the organized crime economy, existing gambling laws must be rigorously enforced. It was not anticipated that legalizing lotteries would suppress numbers games. The NACCC noted that when--for the first time in this country--a meaningful law enforcement capability has been gradually brought about, legalizing gambling has become a prime issue and one widely adopted by the States. The NACCC opposes legislation that would eliminate Federal restraints against interstate transmission of gambling information or data or paraphernalia which further illegal gambling--because State governments have decided to compete with organized crime.

The NACCC predicts that within 25 years, there is going to be a mass of scandals concerning State-operated gambling operations. When States become involved in gambling, they are no longer providing government services--they are selling a product for profit. Past experience in this country has shown that gambling has a negative effect on society; thus, State governments should not become involved in a business--heretofore illegal--that can deliver to only a few what it promises to all.

The NACCC expressed concern over the following points:

- Would the States be bound by truth-in-advertising regulations that make clear that winnings will be limited to a very few persons?

- Who would regulate the State governments that will be competing with each other as well as with organized crime for the consumer dollar in the field of gambling?
- What would guarantee that the government agency in charge of gambling would be any less subject to illegal pressures than private enterprise that may be licensed to run gambling operations? What would guarantee that organized crime would not influence the outcome of gambling events? What protections would be offered against corruption of computerized gambling operations?

The NACCC believes not only that there should be no relaxation of gambling restrictions by the Federal Government, but that a Federal agency should be created to enforce regulations against the State gambling enterprises, to enforce truth-in-advertising in promotion, and to be constantly on the alert for organized crime infiltration.

TESTIMONY OF:

- Paul Ylvisaker, Chairman, The Task Force on Legalized Gambling,
Sponsored by the Fund for the City of New York and the
Twentieth Century Fund

DECEMBER 5, 1974

(Dean Paul Ylvisaker of Harvard University spoke on behalf of the Task Force on Legalized Gambling financed by the Fund for the City of New York and the Twentieth Century Fund.)

The Task Force recommended against legalizing gambling. The reasons were:

1. That the revenue that government would gain from legalizing gambling was far lower than the amounts claimed by the proponents.
2. That the claim that legalizing gambling would control criminal activity and would reduce corruption of public officials was not valid.
3. That the government could not in any way give the fringe benefits or some of the amenities that go with illegal gambling, and thus the illegal game would always be at an advantage.

Concerning legal lotteries, it was maintained that no real significant corruption potential existed because the operation was not seen as a threat to the numbers game.

Concerning the failure of the New Jersey referendum on casino gambling to pass, Mr. Ylvisaker suggested these reasons:

1. A sophisticated ability on the part of the New Jersey voters to question realistically the revenue potential of such an operation.
2. An option offered by the legislature to each community in the State, making casino gambling available to all. Many of those opposing the bill felt their area would be adversely affected by such an option.
3. A pattern of land purchases that was going on prior to the election made voters wonder whose interest was being looked after.

Finally, it was recommended by the Task Force that:

1. More tracers be put on revenue flows.
2. Public opinion polls be taken in which necessary attitude data could be collected.

3. Further studies be made on the lottery and its impact on other forms of gambling.

4. The police try to assist agencies interested in gambling in forming a model of an effective game.

TESTIMONY OF:

- Henry S. Rowen, Task Force on Legalized Gambling, Fund for the City of New York and the Twentieth Century Fund

DECEMBER 5, 1974

(Professor Rowen undertook an inquiry into the legalization of gambling for the Twentieth Century Fund in 1972. His findings were later published in The Journal of Public Interest.)

There are three incompatible arguments generally advanced concerning the legalization of gambling:

1. There is a large revenue potential for the State in legalizing gambling.
2. Legalizing gambling will help reduce corruption of law enforcement officials because money will be drained away from the illegal gamblers who used these funds to corrupt police.
3. If people want to gamble they should be allowed to gamble.

The first two arguments are conflicting. There is no way that one can raise a large amount of revenue for the State without creating an umbrella under which illegal operators will find it profitable to operate. Moreover, the gambling market will be developed by the State, more people will gamble, and some of these people will find the illegal gambling opportunities attractive.

The government could produce tough competition for the illegal game, but only if its tax on gambling operations were cut back, as is the case in Britain. As far as credit is concerned, there seems to be no reason why licenses of State-operated gambling operations could not grant credit to a private entrepreneur. However, it is improbable that any process of general legalization of gambling could take place in the United States other than in a promotional way.

The Task Force on Legalized Gambling emphasized the following points:

1. The Federal Government should not directly engage in the gambling business.
2. The law enforcement benefits of legalization are more important than the revenue potential.
3. Because a large amount of gambling goes on in the United States, and because of the great diversity within the country regarding gambling, a national policy on gambling will be difficult to construct.

TESTIMONY OF:

- Vincent Piersante, Chief, Organized Crime Division, Michigan State Attorney General's Office

DECEMBER 5, 1974

The long and continued existence of illegal gambling has had and is continuing to have a devastating effect on the level of corruption and the tolerance of corruption in our society. Law enforcement energies should be concentrated on making corruption cases against gamblers and other racketeers, rather than on the substantive acts of gambling. An administrative tool to provide the necessary checks and balances could be effected by the creation of a State grand jury investigative unit that would be responsible for investigating organized crime and official corruption.

(Mr. Piersante was a member of the committee that designed the Michigan lottery statute. He tried unsuccessfully to put specific wording in the statute that would have mandated the Commission to compete with illegal lotteries.) Although the extension of legalized gambling is not advisable, since the lottery law is on the books, it should be used to compete with organized crime. The lottery should specifically compete with the numbers racket if for no other reasons than to reduce the opportunity for corruption and to make the numbers constituency a part of the mainstream of the American public rather than a part of the underworld entity called organized crime. There has been no visible impact of the lottery on mutual numbers to date, due to the fact that the lottery was designed for revenue purposes and not for competition. Although it will never be possible to wipe out the numbers operation entirely, it should be possible to eradicate some of the side effects. Competition is a viable solution.

TESTIMONY OF:

• Francis B. Burch, Attorney General, State of Maryland

DECEMBER 5, 1974

(Attorney General Burch presented testimony on his own behalf and on behalf of the State of Maryland, and on behalf of Attorney General Warren Rudman of New Hampshire and the State of New Hampshire.)

The current state of gambling law encourages its violation and disrespect for the legal system of the United States. The Commission on the Review of the National Policy Toward Gambling in making its report to Congress should make the strongest possible case for revision of these antiquated statutes, so that State and Federal authorities can turn their attention to the abuses of gambling and other problems of real crime that the law should correct.

Federal and State governments should not discriminate against legalized State-operated lotteries. The U.S. Attorney General misconstrued the applicable statute law on lotteries. Congress did not intend present laws to apply to legal lotteries authorized by the residents of a State. Revenue measures that are presently being considered by the IRS should not be passed.

The amendment to H.R. 6668 that would allow not only an individual lottery State but the adjacent recognized legal lottery State as well to advertise should be passed, even though the amendment does not solve the problems of Maryland residents served by media originating from the District of Columbia. However, the lottery in its present form would have little effect on illegal operations and should not be expected to lessen organized crime.

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(NOTE: The question of whether sports gambling should be legalized was one of the most controversial issues studied by the National Gambling Commission. For this reason, the February 19-20, 1975, hearing

summaries dealing with sports betting are longer and more detailed than the summaries of other hearings. Each summary also contains an analysis section that examines the arguments in terms of their possible strengths and weaknesses.

TESTIMONY OF:

• Art Rooney, Owner, Pittsburgh Steelers Football Team
FEBRUARY 19, 1975

Prepared Statement and Testimony

Gambling on team sports should not be legalized. The impact of legal betting on organized crime and the revenues derived from such legalization would be too insignificant to offset the great harm that would be done to sports.

As the Fund for the City of New York noted in its study of gambling, legalization would not accomplish what many of its proponents anticipate. As a revenue measure, legal sports betting would raise only small amounts of money in the wrong way from the wrong people. As a law enforcement weapon, legalized gambling is no substitute for what should now be a vigorous and sustained assault on organized crime.

The integrity, success, and future of football would be jeopardized if gambling were legalized. The number of bettors--both social and compulsive--would increase dramatically. More fans would have a financial stake in the outcome of the game and hence little or no interest in its competitive value. Sports should not be subjected to this. Fans could interpret every move by a player according to how they bet. Fans would be more concerned about winning or losing a bet than about identifying with the success or failure of their favorite team. The gambling fan would become suspicious whenever something unusual happened in a game and, often, when nothing unusual occurred.

Legalization would present great harm to the athletes. As long as gambling remains illegal, people will be reluctant to discuss betting with professional athletes because they know that from the athletes' standpoint, the subject is taboo. This would no longer be the case if sports betting were legal: players would be subjected to the additional pressure of fans seeking inside information.

Officials also would be adversely affected. It is not unusual for the outcome of a football game to be determined by an official's decision. In some cases, losing bettors might attack officials unmercifully if gambling were legalized.

There has been an overreaction to the amount of illegal gambling that actually exists. It is not so much in demand that it has to be tightly controlled through legalization. Gambling is far less detrimental to society on a relatively small, illegal basis than it would be if it were legalized and became more widespread.

Questioning by Gambling Commission members covered these basic areas:

1. The distinction between gambling on horseraces and gambling on team sports. Mr. Rooney stated that horseracing could not have existed without wagering. Team sports have existed successfully without wagering and it would be in the best interests of society if it were left this way.

2. Prohibition of the media's dissemination of point spread information. Since point spreads are almost essential to bookmakers, any attempt to ban the publication of them should result in a substantial decrease in the amount of illegal gambling.

3. Whether legalized sports betting should exclude betting by players. Mr. Rooney stated that the NFL would have difficulty preventing players from betting under a system that would allow the remainder of society to bet. But he stated that it would be in the best interest of sport if both players and owners were prohibited from betting.

Analysis

Mr. Rooney stated during questioning that government regulation of horsetrack wagering did not undermine his ability to operate his tracks successfully, but that the same regulations applied to wagering on his professional football team might have undesirable effects. Mr. Rooney may be justified in his belief that success in regulating wagering in horseracing does not necessarily foretell success in regulating wagering on team sports. The two activities are sufficiently different to justify concern and further study on this issue.

Mr. Rooney believes that illegal gambling on sporting events has not created a serious problem for society or for sports. Statistics developed by the Justice Department indicate that the amount of illegal gambling is reaching major proportions--as much as \$40 billion a year. There is evidence to indicate that organized crime is the recipient of much of these gambling profits and that the revenues from illegal bookmaking activities finance loansharking, prostitution, and drug trafficking. If this is the case, then gambling on sporting events has to be judged as a serious problem for society.

It appears that the public tends to downplay the degree of illegal gambling activity on sporting events. Mr. Rooney is no exception. He feels that there has been a vast overreaction by some people to the amount of illegal gambling that actually exists. As long as the public remains unaware of or uninterested in illegal gambling, any attempts to

rectify the problem will meet only token approval. Although sport is justified in its concern over the possible effects of legalization on its industry, it should at the same time accept the fact that the gambling crisis is real, and that it may take the concentrated efforts of all elements of society, including sports, to find workable solutions to the problem.

TESTIMONY OF:

• Andy Russell, Professional Football Player, Pittsburgh Steelers
FEBRUARY 19, 1975

Prepared Statement and Testimony

Sports betting should not be legalized because it will create an unhealthy atmosphere for the participants in sporting events as well as create ills for the rest of society.

Gambling is not often a topic of conversation among football players. On occasion, players do make reference to gambling but it is usually directed at the credibility or expertise of media personnel who attempt to handicap upcoming games. Players find point spread references in local newspapers amusing, but mention of it never arises during a game because players are too preoccupied with their assignments and responsibilities. (Russell stated that he had never witnessed any gambling infractions involving any member of his team during his 11-year career in the National Football League.)

Players tend to have many conversations with the general public during the course of a football season. For the most part, fans are reluctant to bring up any matters connected with gambling out of respect for the rules and penalties they know are involved. Most fans refrain from "pumping" the athletes or looking for so-called inside information that would aid them in their gambling.

The fans that do bring up gambling, either in a joking or as a serious matter, misunderstand the point of the game. When reference is made to the team's failure to beat the point spread, the players usually become angered and pressured to react to such comments.

Players are not totally alien to gambling. Many go to casinos and horseraces, but this gambling stimulation does not carry over to football. Any such temptations are squelched because the NFL does an excellent job of informing the players about the prohibition against gambling on football games and against associating with people who gamble.

Legalized sports betting would dramatically change the stadium atmosphere. Fans would no longer be satisfied with a simple win; they would demand that the point spread be beaten. Players are sensitive to negative criticism and the increased booing that would result from a legalized gambling atmosphere would cause the players to be hesitant and less aggressive in their play.

Betting fans would react differently from nonbettors to the strategy of the game:bettors would be highly critical and suspicious of defensive strategies such as running out the clock. Coaches and players would be constantly second-guessed.

With legalization, players and their close friends would be scrutinized by other gamblers for clues to the betting patterns of players or their representatives. Bettors would constantly assume that players had advised their friends how to bet.

Players desire to be regarded not as subjects of distrust but as people that both the young and old can admire. Why risk changing a healthy relationship into one of possible disenchantment? Football is a diversion in the sense that it gets people away from the routine and reality of their lives. Millions of people, who do not bet, enjoy this healthy aspect of the game, and football should remain this way.

Questioning by Gambling Commission members covered these basic areas:

1. Fans' criticism of the play and its effect on player performance. Russell said that players must love football to be successful at it. Players take spectator criticism seriously because it implies that they are not giving maximum effort. Criticism from gambling fans tends to make the players less aggressive and more afraid to make mistakes.

2. Prohibiting the media from disseminating point spread information. Constructive steps should be taken in this direction.

3. Whether NFL security efforts would be adequate under legalization. Security efforts are effective now but it is unclear how effective they would be if players had easy access to legal betting. With legalized gambling, there would no longer be a social stigma on players who gamble.

Analysis

Team owners and league commissioners who testified before the Commission implied that players can live with illegal gambling but not with legal gambling. The latter, they felt, would increase the incidence of bribery and game fixing, which could lead to the destruction of sport. Perhaps the integrity of players is being underestimated. Sports' excellent record of integrity over the last decade indicates

that players have successfully avoided negative gambling influences, in spite of the heavy illegal gambling that takes place on sports events.

Russell stated that some players are distracted by critical comments from betting fans. A New York Times series on sports betting (February 1975) noted that some athletes in professional basketball were aware of fans having betting interests on the outcomes of games. Although the fans make known their desire for the team to win by the point spread, the players try not to let this distract them. Russell cited an instance in which betting fans undermined player confidence during a Pittsburgh-San Diego football game. The Pittsburgh team, clearly in the lead with time running out, retired their seasoned players to give those with less experience a chance to play. When their lead shrunk to a level below the point spread margin, the fans loudly criticized the team. The ability of athletes to function before a gambling-oriented audience has not been thoroughly examined, so that it is not known yet whether widespread legalized sports gambling--and the altered fan interest this could bring about--would seriously undermine athletes' playing ability. As part of its efforts to make this determination, the Commission is studying various European sports on which betting is legal.

TESTIMONY OF:

• Pete Rozelle, Commissioner of the National Football League
FEBRUARY 19, 1975

Prepared Statement and Testimony

The National Football League is opposed to the concept of legalized gambling on professional football and sees in proposals to legalize betting on team sports the "potential destruction of the sport as we know it."

Professional football depends for its survival on the public's perception of the integrity of the games, owners, and players. The NFL has strict rules against gambling or association with gamblers by anyone connected with the league. Although legalized gambling would not diminish the importance of these rules, it might make enforcement impossible. In addition, the pressure on players and club and league personnel from increased numbers of people seeking inside information would quickly become intolerable.

Preventing actual wrongdoing by those associated with football is important, but it is also essential to avoid the appearance of wrongdoing. Legal sports betting would seriously erode public confidence in the games. It would create a generation of cynical fans, obsessed with point spreads and parimutuel tickets and constantly suspicious of the motives of players and coaches. Any error made in a critical situation might be viewed with suspicion and be subjected to charges of a fix. While public confidence in the games slowly changes to cynicism, athletes, coaches, and officials will be driven to distraction by unfounded but lingering accusations of wrongdoing resulting from a simple physical mistake or controversial call.

A State-run monopoly on team sports betting would be administratively burdensome and extremely expensive to oversee, with only dubious prospects of ultimate financial reward. Government sponsorship would entail active promotion in order to keep interest from waning. Moreover, the State's money interest in the game would involve increased risks of official corruption and would require a dramatic enlargement of government security forces. Ultimately this money interest would require direct and extensive government participation in what is now an effectively self-regulated sport.

There is serious doubt that legal State-run gambling could compete effectively with illegal gambling. Illegal winnings are tax free and illegal bookies will extend credit to their clients--two advantages that the government probably could not match. Many of the new bettors created

by government promotion might eventually graduate to the illegal bookie, or to his colleague, the loan shark.

The prospects of revenue from legalized gambling also are invariably exaggerated. Early predictions of gambling revenue proved to be far short of the mark, and more than 30 years of legal horse betting in New York has failed to alleviate the constant pressure for more and more revenues from this source.

Finally, government sponsorship of sports betting would have no appreciable impact on organized crime. In fact, there is evidence that legalized sports betting might actually increase the amount of illegal betting and the involvement of criminal elements.

Questioning by Gambling Commission members covered these basic areas:

1. NFL rules against gambling. Commissioner Rozelle stated that the same principles of discipline apply to both owners and players when gambling-related infractions of NFL rules are discovered.

2. Betting by players. If gambling were legalized, the Commissioner stated, the NFL would continue to prohibit players from betting on games, but enforcement would become impossible.

3. Increased suspicion. The Commissioner testified that legal gambling would change sports fans into suspicious gamblers. Government switchboards would be jammed with callers demanding an investigation of each controversial play that may have affected the outcome of the game or the point spread.

Analysis

Much of the Commissioner's testimony appeared to be based on the assumption that illegal gambling at sports events currently is minimal and that legal gambling would "change the fundamental character of fan interest in pro football by converting millions of fans into gamblers...."

Commissioner Rozelle quoted a Harris Poll survey indicating that the vast majority of football fans do not gamble on NFL games in any meaningful way. He also cited a figure supplied by the National District Attorneys' Association to the effect that less than 1 percent of the population participated in illegal gambling. The accuracy of

these figures is disputable. Preliminary statistics developed by the Gambling Commission indicate that the actual percentage of illegal gamblers, including sports gamblers, is much higher. Figures supplied by the Justice Department place the amount of money bet illegally at between \$29 billion and \$39 billion annually.

If it is true that a significant number of people do currently gamble on football games, it might be argued that the NFL, in opposing legalized sports betting, is not only acting in what it believes to be its own best interests (which the Commissioner freely admitted) but is also protecting the interests of illegal gamblers. Its practice of insuring that all injury information is made public may help reduce suspicion about the games, but it also helps bookmakers establish more accurate point spreads. The Commissioner did not state clearly whether he would favor or oppose attempts to prohibit the broadcasting and publication of certain game information prior to the event. With respect to the dissemination of point spread information, the Gambling Commission chairman suggested that if the newspapers complied with Federal law against disseminating gambling information, the point spread might not be publicized at all.

The NFL also is concerned that legalized gambling would significantly increase the government's interest and participation in sporting events. By equating legalization of sports gambling with government sponsorship, Commissioner Rozelle foresaw the creation of a monumental governmental bureaucracy continually expanding as a result of its efforts to maintain high profits and investigate the inevitable charges of fixes and corruption. The Commissioner did not appear to have considered the possibility of a form of legalized sports betting that was not State-operated.

The Commissioner downgraded the significance of revenue from legalized gambling, saying that such revenue from team sport gambling would not "appreciably ease the financial burdens of government at any level." Some officials believe that even minimal fiscal relief makes legal gambling worthwhile. The subjective nature of this issue fosters controversy: At what point can the money generated through legal gambling be classified as significant and worthwhile?

It is not yet known precisely how legalized sports betting would affect illegal sports betting. The Commissioner stated his belief that ~~illegal gambling would not be hurt through legalization and that it~~ might even benefit. He cited as evidence a document prepared by members of the New York City Police Department regarding that city's legal off-track betting. The accuracy of this document is questionable; it was not based on scientific study and does not represent the official position of the police department itself. This does not mean that the information it contains is necessarily false, but it does indicate that

further study is needed before any conclusion can be drawn regarding the cause and effect relationship between legal and illegal gambling.

The NFL has a vested interest in protecting the integrity and popularity of its sport. This interest is legitimate, and if there is even a slight possibility that legal sports gambling might be destructive to football, that possibility deserves to be thoroughly explored.

TESTIMONY OF:

• Bowie Kuhn, Commissioner, Major League Baseball
FEBRUARY 19, 1975

Prepared Statement and Testimony

Major league baseball is opposed to any extension of legalized gambling that might include baseball or any other team sport played at an amateur or professional level. Any form of gambling, legal or illegal, imposes a threat to the integrity of baseball, exposes it to grave economic danger, and is a disservice to the public interest.

Ever since the Black Sox scandal in 1919, the commissioners of baseball have traditionally considered the maintenance of the sport's integrity as their most important function. Major League Rule 21 provides for the most severe penalties possible, including life-time playing ineligibility for any player or official who attempts to fix the outcome of a game, or who gambles on baseball games.

The proponents of legalization argue that it would:

- Deal a death blow to organized crime;
- Not adversely affect society;
- Greatly increase State and local revenues; and
- Not irreparably harm team sports.

Major league baseball emphatically disagrees with each of these points.

Effect on Organized Crime. The legalization of sports betting would lead to greatly increased gambling on baseball, both in terms of dollar volume and the number of bettors. Legalization with the attendant government sanction it implies would make gamblers out of millions of fans who presently have no interest in gambling. It is naive to think that legalization would eliminate or even substantially diminish the volume of illegal gambling on baseball; in fact, quite the opposite would occur.

No government operation can effectively compete with the illegal bookmaker. Organized crime would be able to exploit the market of newly initiated gamblers that legalized gambling would make available to it. Organized crime would also benefit from enlarged loansharking opportunities presented by increased gambling.

Effect on Society. The well-intentioned proponents of legalization have been misguided. They are blind to the dangerous social effects gambling can produce. Gambling money will come in many instances from those who can least afford to lose it: money that should go for food,



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clothing, education, and other necessities. It is the utmost in cynicism to use the great family sport of baseball to draw into the vice of gambling the overwhelming majority of the population that does not gamble today.

Effect on State and Local Revenues. The legalization of gambling on team sports will not provide an important new source of revenue for government. It may be true that a legalized gambling operation may produce a modest revenue return, but this increase in revenue must be weighed against greatly increased social costs that would be triggered throughout society in direct ratio to increases in gambling opportunities. Legalization of sports betting is no substitute for a broad and sustained assault on organized crime. "Encouraging vices for the sake of taxing them is counterproductive and immoral."

Effect on Sports. The legalization of sports betting could jeopardize the existence of professional baseball and other professional sports by:

- Shaking public confidence in the integrity of the game;
- Creating a climate favorable to gambling which would undermine baseball's historic efforts to prevent gambling by its people;
- Creating a new class of gambling fans;
- Adversely affecting baseball's strong family following; and
- Threatening the financial stability of professional baseball.

Legalization would adversely affect baseball's reputation for honesty by creating suspicion in the minds of the betting and nonbetting public. Where there is heavy gambling, suspicion of dishonesty will inevitably follow regardless of how honest the sport may actually be. Baseball has long been free from suspicions of dishonesty, which is in large measure responsible for the enormous popularity of the game.

Moreover, legalization would increase the likelihood of efforts to fix games and individual performances. The past decade of gambling-related scandals in Europe demonstrates the effects that legalized betting could have in this country. Legalized betting probably would expand into different types of baseball betting other than individual game bets; e.g., spread betting and betting on individual performance. These types of betting would increase pressure for inside information and lead to undesirable associations involving players, managers, and other officials with members of organized crime.

The devotion of millions of fans to professional sports is rooted in their deep faith that the games are honestly played and that the athletes give their best performance at all times. The more

sophisticated types of betting could lure players into shaving points and turn baseball games into exhibitions of individual performances.

The legalization of sports betting could also lead to the licensing and government control of owners, players, and game conditions, as is the case in horseracing. This situation would change the nature of the game. With or without such controls, baseball is opposed to legislation that would permit any government agency to conduct or profit from the booking of bets on baseball games. Such activities by local or Federal government in the absence of baseball's consent would represent a deprivation of baseball's property rights. Major league baseball will, if necessary, resort to the courts to protect its good name and economic well-being.

Questioning by Gambling Commission members covered these basic areas:

1. Baseball Rule 21. Rule 21 stipulates that a player will be permanently banned from professional baseball for gambling on his own team, and suspended for 1 year for placing bets on teams other than his own. Commissioner Kuhn stated that if betting on baseball is legalized, players will still be prohibited from gambling on baseball games. Gambling on other sports is not currently prohibited where it is legal. Betting on baseball is singled out because it could have some effect on the player's performance and raise suspicions concerning the integrity of the game.

2. Legalization and attendance. Legalized gambling on baseball might attract the so-called gambling fans, but could drive away family groups that presently attend major league games in large numbers. Once the integrity of the game has been tarnished to any degree, the family groups would continue to stay away and the gambling fans would lose interest. The negative effect on attendance would be devastating to the financial stability of professional baseball.

3. Integrity of the game. Any substantial amount of betting, legal or illegal, represents a threat to the integrity of the game. As the amount of gambling increases, that threat increases. The amount of gambling on baseball is relatively small in terms of population percentage, but the amount in dollar volume wagered is a fairly substantial sum.

4. Security measures. Major league baseball operates a security department headed by two former FBI agents, but the major responsibility rests with the individual ball clubs. No figures are available on the amount spent annually for baseball's security efforts.

Analysis

Major league baseball is proud of its long-standing reputation for honesty and integrity and of its family-oriented appeal. The two are intertwined, and a blemish on the game's integrity could, as Commissioner Kuhn warned, drive the family market into other leisure activities. Baseball is not blind to the realities of illegal gambling and admits the problem exists and that it creates a continuing threat to all sports, professional and amateur. Baseball offers as a solution continuing vigilance by its own security personnel and increased enforcement of existing laws. Baseball has adopted the attitude that illegal gambling has not affected the present game but that legalized gambling may well do so.

Commissioner Kuhn's testimony focused on the legalization issues and did not concern itself with the present illegal gambling situation. The Commissioner maintained that only a small segment of the population currently wagers on baseball games, a conclusion he based on information supplied to him by enforcement officials throughout the country. The Gambling Commission does not yet have any figures reflecting the popularity of baseball betting and thus cannot refute or substantiate the veracity of this opinion. But it appears reasonable to conclude that major league baseball does not believe it has a serious gambling problem. The central strain running throughout Mr. Kuhn's testimony is that legalization would not serve to alleviate any social ills, but would only create new problems that could eventually cause the destruction of professional sports in America.

Specifically, Mr. Kuhn argued that the legalization of sports betting could only adversely affect those areas that its proponents believe would be best served by such legalization. The studies and legal opinions used by major league baseball to bolster its opinion--the Twentieth Century Fund Task Force Report on Legalized Gambling; a 1963 New York State Assembly Report on Off-Track Betting in England; and a New York City Police Department "white paper," whose validity has been questioned--all concluded that legalized gambling could neither effectively combat organized criminal influence on gambling nor raise sufficient enough revenue to legitimize its existence. Commissioner Kuhn defended the conclusions reached in the New York police report by claiming that New York City is in the legalized gambling business and does not wish to label as "official" any evidence that appears so thoroughly to damn the existence of legalized gambling in that city. It is the opinion of the Gambling Commission, however, that the veracity of these conclusions has yet to be proven and that further study is needed to ascertain with greater authority the cause and effect relationships between legalized gambling and (1) illegal gambling operations, and (2) the image and economy of the Nation's sports industry.

Major league baseball admits that its opposition to legalized gambling is rooted in its wish to retain the status quo that has provided the sport financial stability and an enviable record of honesty and integrity. Baseball does not look beyond this sphere in its consideration of the merits and risks of legalization. Its primary concern is to provide its patrons with an honest and competitive game with as little interference, government or otherwise, as possible, and it feels that it is currently performing this service. This is a legitimate interest and one that must not be overlooked when gambling policies are being determined by this Commission and by State and local governments. If it is determined that legalized betting would have a serious detrimental effect on the integrity and popularity of team sports, that possibility must be thoroughly explored and evaluated before any final decisions are made concerning legalization.

TESTIMONY OF:

• Clarence Campbell, President, National Hockey League
FEBRUARY 19, 1975

Prepared Statement and Testimony

The National Hockey League is unequivocally opposed to the legalization of gambling on team sports in any form. Gambling is not intrinsic to the game of hockey and such legalization would irreparably harm the sport by subordinating the entertainment aspect of the game in favor of a gambling interest. The nature of sports would be completely changed. The NHL is not in the hockey business to provide a medium for conducting an activity that potentially threatens the integrity of the sport.

Ever since two players were expelled from the league in 1948 for gambling on NHL games, the National Hockey League has been free from any gambling scandal. Since that time, the NHL knows of no instance of anyone associated with the league who improperly or illegally attempted to influence the outcome of a game. The NHL security department maintains vigilance over the league in an effort to prevent a recurrence of gambling scandals.

The legalization of sports betting would not only increase the potential danger of a gambling scandal in the NHL, but would also greatly increase the expense of maintaining proper surveillance over the league. Moreover, legalization would increase enormously the number of people wagering on hockey games, thus exposing players, coaches, and officials to more and more gambling fans seeking inside information.

Most people still attach a stigma to illegal gambling. If this stigma is removed, and gambling is given an aura of respectability and social acceptability, a whole new generation of gamblers will be created. Very few of the more than 10 million fans who attend NHL games each year have a wagering interest in the outcome of the games. The NHL is not concerned with the fan who bets a dollar or two on his favorite team with a friend, because this type of activity is not going to affect that fan's loyalty to his team. But the NHL is concerned that legalized gambling could result in arenas filled with fans more concerned with winning their bets than with the success of the home team.

The NHL is fortunate that gambling on hockey games is minimal compared to other sports. Hockey does not lend itself to the type of gambling that hinges on point spread considerations; because hockey games are generally low-scoring contests, it is difficult for the odds-makers to develop a meaningful betting line. The National Hockey League is concerned that gambling does take place on its games and has taken what it considers to be prudent action to protect the integrity of its sport.

Even if sports betting is legalized, the NHL will never condone gambling by its employees or the employees of the member clubs on NHL games. Anyone in the NHL who wagers on league games, whether his team is involved in the games or not, projects a poor image for the sport and is subject to severe disciplinary action, including expulsion and forfeiture of franchises.

Any program to legalize sports betting requires more than the mere repeal of current laws prohibiting gambling. It will require active participation and promotion by the government to encourage the citizens of the community to gamble. This is the most insidious part of legalized gambling. It is not the proper function of government to encourage its citizens to gamble on sporting events with promises of "pie-in-the-sky" winnings or smaller tax burdens. It is also not a proper function of government to exploit a private enterprise by forcing it to take part in an activity for which it was never meant and in which it has no desire to participate.

The National Hockey League, like any professional sport, is always alert to maintain absolute integrity in the eyes of the public. Unquestioned honesty is the lifeblood of any sporting event. Without it, there is no longer a contest, but an exhibition. Gambling offers the greatest threat to the integrity of any game. The NHL sees no possible benefits resulting from the sanction of what is now an illegal activity. The risks are enormous, and it is because of these risks that the National Hockey League expresses its opposition to the extension of legalized gambling to team sports.

Questioning by Gambling Commission members covered these basic areas:

1. Equating government-regulated soccer pools in Europe with similar proposed pools in the United States. Even though hockey is similar to soccer in many ways, Mr. Campbell stated that proposals for hockey pools in the United States would not be practical. Collectively the fans are not as knowledgeable about individual teams as are soccer fans. Campbell could not conceive that pool betting would ever have any real appeal in America, and that the cost of administration of pool betting would result in a disappointingly low percentage of return to both the government and the bettor.

2. Gambling in Canada. Mr. Campbell did not give the Commission any insight into the magnitude of illegal gambling in Canada, but commented briefly on the structure of the various lotteries currently operating in several Canadian provinces.

3. NHL investigations into gambling scandals. In the 29 years Mr. Campbell has been president of the National Hockey League, there was only one major situation involving game tampering. That incident occurred more than 25 years ago and the two players involved were suspended permanently.

4. NHL security precautions. The NHL operates a continuous program of indoctrination and maintains a security department to oversee any possible infractions of its gambling prohibitions. But this does not mean that the players and their families could not be reached by people seeking inside information. One way the clubs attempt to prevent this is to have the players live in the same community and participate as friends and neighbors in the same activities, so that there is less possibility that they will be influenced by someone who is interested in promoting or exploiting them.

Analysis

Professional hockey presently generates only a fraction of the billions of dollars wagered illegally each year in the United States, but with the NHL's expansion from six teams in 1967 to 18 clubs at present, the league now enjoys a nationwide following of new fans who are rapidly familiarizing themselves with the nuances of the game. Ten years ago, the National Hockey League encompassed two Canadian cities and four American franchises in the Northeast. This regional interest militated against significant American interest in the game, but if it is true that the level of illegal gambling on a sport is directly related to that sport's popularity, this would indicate that the NHL should become the object of increasing gambling interest once gamblers and bookmakers are able to devise profitable formats for hockey betting and take advantage of a probable growing market of hockey bettors.

The NHL is concerned about the level of illegal gambling on its games, but is unaware of the scope of this activity. The league believes it has taken sufficient action to protect the integrity of its competition against the threats posed by illegal gambling, but views legalization as an irrevocable step toward the destruction of the sport. "It is our conviction that the intensification of gambling by legalizing it will greatly enhance or escalate the risks of our becoming involved with gambling." It could be argued, however, that the NHL has by its own actions in the last decade made itself increasingly vulnerable to illegal gambling by providing bettors with more attractions and network television coverage, but without raising the level of surveillance to insure the integrity of a league that has expanded three-fold in fewer than 10 years. Greater exposure would seemingly foster increased illegal wagering where little had previously existed.

The legalization of sports betting is not something the government has willfully devised to destroy professional sports in the United States and Canada, but such proposals are being considered as a response to a situation from which only organized crime is benefitting. Mr. Campbell fears that government-sanctioned gambling would remove the stigma of illegality from gambling and cause immediate irrevocable problems for professional sports. This concern cannot be dismissed by governments exploring the feasibility of programs for legalized gambling, and it is one to which these governments must be held responsible should they determine that gambling should not only be legalized but declared a moral practice as well.

The question that must be considered is whether gambling is inherently destructive to professional sports, as the NHL suggests, or whether it is a recreational activity that provides its participants with greater enjoyment of sports. Although it may be correct to assume that legalized sports betting would inevitably create a larger degree of cynicism among fans, should this eventuality be of greater importance than the eradication of illegal gambling and/or the generation of badly needed tax revenues? There is at present no way to ascertain what effects legalization would have on the integrity of sports or on the volume of illegal gambling. It will be perhaps the most difficult, but important, determination this Commission will have to make when it decides which considerations should take precedence in the formulation of a national gambling policy. The Commission will have to base its decisions on factual evidence and on those opinions it believes to be knowledgeable and reliable.

The NHL's position and arguments echoed those made by the other professional sports officials, but Mr. Campbell did not feel the league was in a position to comment on the social or unprofitable aspects of legalized gambling. There is therefore little in the testimony of the National Hockey League that can be refuted or termed speculation. The NHL is understandably seeking to retain the status quo relationship between sports and illegal gambling because it believes it is able to provide reasonable security measures against the negative effects of illegal gambling and it feels ill-equipped to handle the potential influx of gambling fans that legalization would produce. Both proponents and opponents of legalized gambling appear to appreciate the arguments and concerns raised by their adversaries, but believe that such difficulties could be overcome by various means. A disservice will surely be performed if either side decides to act without taking these concerns into consideration. If it is determined that the integrity of sports would be irreparably damaged in the public mind by legalization, this possibility must be explored thoroughly in order to protect the future of professional sports and the services it currently provides.

TESTIMONY OF:

• Jimmy (the Greek) Snyder, Handicapper
FEBRUARY 19, 1975

Prepared Statement and Testimony

Sports handicapping is as much an art as it is a science. Professionalism stems from extensive knowledge about teams, players, coaches, and other interests. Handicapping a certain sporting event requires the use of all the legal (as opposed to inside) information the handicapper's scouts can gather on a team. Each team is given a number reflecting an assessment of its strengths and weaknesses. When two teams play, the difference in their numbers constitutes the point spread used for wagering purposes.

Wagering on team sports, both amateur and professional, should not be legalized. The revenue potential to a government would not be enough to make such a venture worthwhile. With a profit margin of 5 percent, the profit made by illegal gambling operations on sports betting is approximately \$300 million annually. This margin of profit is too low for a government operation to generate significant tax revenue or be able to guarantee the integrity of its operation or of the sports themselves. The integrity that exists in the sports community today could not be maintained with legalized betting because fan suspicion would inevitably cloud athletic events.

The greatest amount of gambling money comes from the middle class. Betting is contagious, and 20 percent of all gamblers overdo their betting to the point of financial ruin. The legalization of sports betting would broaden the customer base and therefore automatically increase the number of problem gamblers. Legalization would remove the stigma currently attached to betting and make it all too available to those who cannot control their gambling impulses.

Although the number of individual bets has increased dramatically in the past 10 years, the total betting volume has not increased. Greater television exposure has led to an enormous increase in wagering between friends and in the use of parlay cards, which can be had in practically every office building in the country, but large-scale betting--\$500 and up--has declined.

Ninety-five percent of all sports bets are in the \$25 to \$50 range--bets made by people in the lower middle and middle income brackets of the population. There is a strong correlation between those segments of society that bear the greatest tax burden and those segments that provide the greatest amounts of money for sports betting.

The FBI has been extremely effective in enforcing the gambling laws passed between 1961 and 1970. There are perhaps five bookmakers left in the country who will accept a bet of over \$10,000 on a single event, and only a similar number of bettors who can place a bet of \$100,000 on a single game.

Legalized betting would bring more bettors and thereby more bribery into sports. It would be virtually impossible to prohibit athletes from betting for or against their own teams. If betting were legalized on a national level, this could induce a number of the lower paid players to bet exorbitant amounts on their own efforts--and under a legalized system this would be difficult to prohibit or detect--with the result that one timely fumble would enable the player to retire financially secure.

The sports of baseball, basketball, and hockey enjoy a large enthusiastic following motivated only to a minor extent by gambling interests. Baseball in particular has faded in significance as a betting medium. These sports would be seriously hurt if their appeal to their fans were to be soured by constant suspicions. Football would survive, as approximately 60 percent of the adult male audience in the stadiums are aware of the point spread on the game they are watching and have a wager of some kind on the outcome, but the tone of the game would definitely change.

Questioning by Gambling Commission members covered these basic areas:

1. Affect of legalized gambling on attendance. Snyder claimed that legalization of gambling would have no appreciable affect on attendance at sporting events.

2. Best form of legalized sports betting. Pool card betting on professional team sports would be the most workable form. Snyder was adamant in his belief that all amateur events should be excluded from the card.

3. Baseball v. football betting. Football replaced baseball as the betting favorite because of the violence connected with it: it creates excitement and chaos, which people today are eager for.

4. Volume of illegal betting. The volume of illegal betting has decreased tremendously since 1962. The FBI has harrassed every big bettor and bookmaker into a hole or put him in jail. The volume of sports betting has not declined because the level of social betting increased in that period. Gamblers no longer bet huge sums on games.

5. Bookmakers. Ninety-five percent of the business done by legal bookmakers in Nevada are for tickets between \$25 and \$50. An illegal bookmaker, except for a corner operator, does not handle customers in that small a range. Up until 1951, when the Kefauver Committee brought out the 10 percent excise tax on wagers, there had been no limits placed upon the number and size of bets allowed, as long as the bettor had credit. The new law knocked out 50 percent of the major bookmakers. The laws passed in 1961 caused 90 percent of the remaining 50 percent to quit bookmaking.

6. Polls reflecting betting habits of NFL fans. Snyder disagreed with the Harris Poll and the poll taken by the National Association of District Attorneys, which estimated that only 1 percent of NFL fans bet in any meaningful way on NFL games. He defended the NFL's use of these polls to bolster their position because he agreed with Commissioner Rozelle that the sport has to be protected from the effects of legalized sports gambling.

7. Bettors. In football there are three kinds of gamblers: the challenger who bets against the opening line, the followers who respect the opinion of the challengers, and the rest of the betting population who merely like to bet.

8. Betting habits of the total population. Forty percent of the 60 percent who are aware of the point spreads make some kind of social wager. It all depends on the press and the publicity any situation receives. The bigger the publicity, the more people will want to make some kind of friendly wager on an event.

9. Organized crime. Snyder stated that he does not believe that there is organized crime in sports. "In fact, I just don't believe it because I have never seen it--not in the last 15 years anyway. They've found better places to put their money, if there is such a thing as organized crime.... There might be an organization in each little town or a group of people organized together. That is all I have ever seen. That doesn't mean that there isn't.... It sure makes good reading--and it could exist. But I have never run into it, and I don't want to.... Afraid of it? You're damn right I am."

10. Legalized gambling and layoffs. If betting were legalized, most of the big bettors would return to their former habits, including Snyder himself. The need for layoffs is created by the big bettors, but the laws have effectively stopped it. A legal system would need a big central layoff system.

Analysis

It is interesting that Jimmy (the Greek) Snyder opposes the legalization of sports betting. Perhaps no other single individual has promoted and popularized social wagering to its present level of respectability more than Snyder, both through his column and flamboyant reputation. His arguments against legalization, however, are the same ones voiced by most gambling opponents: (1) Government would not be satisfied with the low 5 percent profit margin currently accepted by illegal bookmakers; (2) legal betting would compromise the integrity of sports; and (3) the number of compulsive gamblers would increase.

Some or all of these arguments might eventually prove correct if betting were legalized, but not enough is presently known about these various issues to make positive statements. Snyder's argument that a government-operated betting system could not compete with the present illegal apparatus may be valid, but the possible competitiveness of legal betting would depend greatly on its relative attractiveness to the betting, and nonbetting, public. If the principal purpose of a legal betting operation were to combat organized crime, and not to generate tax revenue, a government system could offer a number of features to attract not only the social wagerer and the parlay card player, but also the veteran illegal bettor. The government could (1) operate with a lower profit margin; (2) license bookmakers and thereby offer the amenities to which bettors are accustomed; (3) enact stringent laws aimed at the illegal bookmaker as well as at the bettor who continued to wager illegally despite the availability of a legal system; (4) and utilize other measures that might serve to attract the present betting populace or cause the elimination or substantial reduction of organized crime's monopoly on gambling proceeds. There is no definitive way to judge how successful a legal betting operation might prove to be, but there is not yet enough factual evidence to dismiss the possibility that it could provide real competition to organized crime betting operations. Similarly an increase in the number of compulsive gamblers might be deemed an acceptable price to pay for the reduction of criminal influence in gambling and other areas of society.

Obviously the loss of sports' integrity would be unacceptable to the public, and it is on this issue that Snyder and the majority of gambling opponents center their antilegalization arguments. No hard evidence exists that reflects the degree to which the integrity of sports has already been compromised by illegal gambling, but there are at present no grave suspicions being raised on this issue, even though billions of dollars are bet illegally on sporting events each year. Presumably the sports leagues would retain their prohibitions and penalties against betting by players and officials if gambling were legalized. It is reasonable to assume that if a player wishes to bet at the present time, the resources necessary to do so are at his

disposal. It is probably true that even a suspicion of scandal in sports is as dangerous to its image as an actual breach of integrity, and that legalized betting would increase the likelihood of suspicion among fans. There is no foolproof way to prohibit sports personalities from betting in a legal system, but the same is true of the illegal system. The maintenance of integrity in sports in the face of gambling interests, whether legal or illegal, is one of the most difficult problems this Commission will have dealt with in developing its recommendations regarding sports betting.

Mr. Snyder's testimony concerning the effectiveness of the anti-racketeering laws passed between 1961 and 1970 appears to be at variance with the Justice Department's own estimation of the situation. A number of major underworld figures have been indicted and convicted as a result of the selective enforcement of these laws, but Mr. Snyder has thus far been the Commission's only witness who stated that the ability to accept bets of over \$10,000 rests with only four or five bookmakers in the country, who largely bet among themselves. The Commission has received from other witnesses testimony that contradicts most of Snyder's statements concerning the relative scarcity of high-rolling bettors and bookmakers, the effects of the Federal antigambling laws, and the popularity of baseball betting today. More research will be necessary in this area before the Commission will be able to draw an accurate picture of the present betting apparatus and be in a position to make recommendations in this area that will best serve the public interest.

TESTIMONY OF:

● Kelso Sturgeon; Author of Guide to Sports Betting; President of Gambling Research, Inc.; Former Editor of Sports Action
FEBRUARY 20, 1975

Prepared Statement and Testimony

Sports betting should be legalized, but whether it is legalized or not, it will continue to exist as this country's largest industry. The basic question is whether betting should be conducted by a subculture operating outside of the law, or legalized and put under governmental supervision.

Almost all available gambling data comes from two sources--Gamblers Anonymous and government agencies such as the FBI and IRS. This data brings out only the negative factors of gambling and ignores the average bettor and his bookmaker.

The sports bettor must not be confused with the horse bettor. Demographics show him to be better educated, financially more successful, and living in a higher level of social acceptance than the horse bettor. A sports bettor does not identify with horses and does not bet on them because racing is not a sport that is closely followed and understood by the majority of bettors. Horseracing is a dying business in this country. It would be a mistake to use the example of horseracing to lay the foundation for new legalized gambling programs. It is difficult for the sports bettor to accept the fact that he can bet legally on horses, but not on sports.

The bettor will not pay the 2 percent excise tax on wagers. If legalized gambling legislation requires the bettor to pay any kind of tax in order to wager legally, the laws will mean nothing.

Most bettors do not enjoy the luxury of credit betting; thus the government's inability to provide this service would not be an obstacle to the successful legalization of betting. Credit betting began to die out when the antigambling laws made it increasingly hazardous for bookmakers to conduct business on the telephone. Bettors now see their bookmakers on an almost daily person-to-person basis and put up their money when they bet. The bookmaker settles up with winning bettors within hours following the sports event.

Any legal sports betting operation that does not provide the bettor the opportunity to wager on single games--collegiate and professional--will fall far short of any meaningful accomplishment. Sports lotteries have their place and should be legalized as well, but they are a separate

business that has little in common with the average bookmaker and that attracts only a fraction of the sports betting volume.

The sports better already has formed his habits: Thus, to be effective, legislation changes must be made to accommodate these habits. If it does not, he will continue to bet illegally.

Many bookmakers believe that sports betting is already legal, and, at worst, feel they are working within a gray area of the law. The reduced excise tax plus the significant change in the disclosure law governing the purchase of the occupational tax stamp makes it much easier to be a "legal" bookmaker in 1975. Proper collection of the excise tax will remain difficult, however, because the gambler will not pay it, and the bookmaker will be financially strapped to absorb it.

It is the opinion of 23 New York area bookmakers that the rates of profitability for the different sports bookmaking operations are as follows: Football and basketball, 4.7 percent; baseball, 1.8 percent; and--depending on the handle--horseracing, 16 percent. (The margin of profit on horses does not hold up unless there is sufficient volume.) If the 2 percent excise tax is absorbed by the bookmaker, the resultant profits would not enable him to make a meaningful profit; thus, taxation of wagering is counterproductive.

These New York area bookmakers favored legalization because it would make their business operations legitimate. They would be willing to:

1. Purchase the \$500 tax stamp.
2. Substitute the 2 percent excise tax with a license fee which might run between \$1,000 and \$3,000 a month depending on the volume of business.
3. Pay taxes on their profits in the same manner as other businesses and corporations.
4. Work with Federal, State, and local governments to design a workable and realistic betting and tax program.
5. Cooperate with law enforcement agencies in establishing and enforcing rules governing the day-to-day operations of their businesses.

Governments at any level would be naive to think that they can eliminate illegal betting without the aid of the present gambling subculture. Bookmakers will continue to operate regardless of the recommendations made by the Gambling Commission, but they would prefer to do so legally.

Legalized sports betting is opposed by the sports establishment, which speaks as if gambling on sports does not exist, or that it is something new and an activity that all decent people should oppose. The sports establishment does not have any answers to the reality of illicit betting, or even know what the questions are. It is safe to say illegal betting has not affected the integrity of sporting events. Bookmakers think the games are honest, or they would not let people bet on them.

Current Federal and State gambling statutes mean little or nothing. Research shows that only the States of Nebraska, New Jersey, and Texas attempt to enforce antigambling laws to any real degree. The laws are not effective because changing public opinion has outdated them. Gambling laws should be more realistically structured to fit the times. Sports betting has been conducted in dozens of countries, and none of them has been swallowed up in moral decay. Gambling in moderation is a healthy recreational outlet with numerous financial and psychological rewards.

Questioning by Gambling Commission members covered these basic areas:

1. Sports betting survey. Mr. Sturgeon is in the process of compiling an unscientific sports betting survey among 200 people he knows who bet regularly. Much of Mr. Sturgeon's testimony concerning the desires of bettors were arrived at through this survey.

2. Law enforcement. Mr. Sturgeon obtained his information about enforcement activities in Nebraska, New Jersey, and Texas from defense attorneys who reviewed gambling cases throughout the country for him. These States, he said, seem to equate gambling violations with offenses such as manslaughter, second degree murder, and other serious crimes.

3. Bribery in sports. Mr. Sturgeon said that he had discovered only two incidents involving football players who had become involved with loan sharks, but he has never uncovered anything that indicated bribery.

4. Volume of illegal betting. Mr. Sturgeon estimated this figure to be much higher than the Department of Justice estimate of between \$29 billion to \$39 billion annually--perhaps as much as \$100 billion each year.

5. Organized crime. From talking with bookmakers, Mr. Sturgeon said he found that the Justice Department's Organized Crime and Racketeering Section Strike Forces have been very effective in weakening organized crime, and are from the standpoint of law enforcement the greatest thing that has ever happened in this country. Mr. Sturgeon

said: "I think that organized crime is probably weaker now than it has been for years. People who are involved in organized crime are more afraid of indictments, convictions, and sentences than they have ever been before. If someone were to legalize betting, it could take this market and cash flow away from organized crime, and though it might not eradicate illegal gambling, it would almost destroy it."

6. Demise of the big bookmakers. Sturgeon disagreed with Jimmy (the Greek) Snyder concerning the availability of bookmakers who will handle very large bets at the present time. He stated that there are more big bookmakers now than there ever have been.

7. Sports betting intelligence and layoff network. This network is a sensitive mechanism, Mr. Sturgeon said, but he said he did not know how it operates. It should not be confused with organized crime, he said.

8. Profits of organized crime. Money that finds its way into organized crime is money that is bet with organized crime bookmakers. The source of funds for loansharking and other activities come directly from the individual bookmakers, but a certain percentage may come from third-party sources as well, Mr. Sturgeon said.

Analysis

Kelso Sturgeon wants to see sports betting legalized because it cannot be eliminated. Mr. Sturgeon did not say whether he himself bets, but his sympathies lie with the millions of fans who do.

His testimony and answers to questions indicate an expertise of the current situation. Mr. Sturgeon may be correct in his assumptions concerning the magnitude of illegal gambling, the links between bookmakers and organized crime, and the desire of bookmakers to become legitimate. Many of his assumptions have been corroborated by a knowledgeable outside source whose views were solicited by the Gambling Commission.

Mr. Sturgeon is, however, at variance with other legalization proponents and government witnesses who claimed that credit betting would be indispensable to any legalized gambling scheme. The availability of this service may differ among individual bookmakers, but if credit betting is common practice among bookmakers and this amenity is not offered to some degree in a legal betting operation, the resultant revenue return and social effects of the legal plan could be disappointing. More evidence is needed to ascertain how important the availability of credit betting is to the bettor.

The existing gambling laws and the Justice Department Strike Forces are extremely effective where they are applied, he said, but overall enforcement is impossible. Mr. Sturgeon's feelings seem to be that, while the laws and enforcement techniques may work well when dealing with individual cases, they are too expensive in terms of costs and man-hours to cover the extensive nationwide network of illegal betting. Mr. Sturgeon's assumption that the current morale of organized crime is at a low ebb has not been offered by any other expert in the field, and there is no further evidence to substantiate this claim.

Mr. Sturgeon focused his testimony on the reasons why sports betting should be legalized, and did not discuss the various legalization programs that he outlined in his book, Guide to Sports Betting. His arguments attempted to show that the pervasiveness of illegal gambling, coupled with the inability of law enforcement agencies to enforce existing laws, make the current prohibitions untenable and a drain on society. This is a popular position among legalized betting proponents, but it does not encompass the concerns raised by the sports leagues and enforcement personnel who believe that legalization would only create additional problems or enlarge the ones that already burden the resources of government. Whether these concerns are real or imagined has yet to be proven, but they should not be dismissed as easily as Mr. Sturgeon recommends.

Mr. Sturgeon dismissed the idea that legalized gambling would damage the credibility of sports in America when he stated that illegal wagering has not affected this integrity. Bookmakers may or may not be a creditable source authority on this question, but presumably State governments would expect more than the word of this group when deciding if legalized sports betting would endanger the future of professional sports in this country. The incidence of sports scandals in foreign countries has been minimal in the past 15 years, but experiences with legalization elsewhere may not be comparable to experiences in this country.

An equitable tax structure between bettors and nonbettors could prove to be an obstacle to a successful legalization program. Mr. Sturgeon spoke on the need for a repeal of the excise tax on gambling and the imposition of a tax on most windfall gambling earnings by the IRS and the Bureau of Alcohol, Tobacco and Firearms. In its testimony before the Gambling Commission, the IRS admitted that a tax break would help legal gambling operations compete with the untaxed illegal games, but that it would be unfair to those taxpayers who do not bet. A year-end tax on earnings, which takes losses into account, might be a solution, but presumably any tax on gambling would be counterproductive to the goals of such a program. The margin of profit on most games is small, as Mr. Sturgeon pointed out, and even a 2 percent tax seemingly serves to discourage the bettor from wagering legally in Nevada. This is a problem that appears to have no satisfactory solution, and until

the basic determination is made as to which direction a national gambling policy should follow--the generation of revenue or the combating of organized crime--this question will probably remain unanswered.

TESTIMONY OF:

• Robert C. James, Chairman, Legislative Committee, National Collegiate Athletic Association

FEBRUARY 20, 1975

Prepared Statement and Testimony

The National Collegiate Athletic Association is adamantly opposed to any government action that would permit gambling on team sporting events, whether such action involved legalization or a less than vigorous enforcement of existing laws limiting sports gambling activities.

The NCAA is a voluntary, nonprofit, educational organization for the administration of intercollegiate sports in the United States. It is composed of 719 4-year institutions in competition in 36 different sports. NCAA member institutions have long recognized that the fulfillment of its purposes to provide honest, competitive, and educational programs would be seriously jeopardized if gambling of any kind were permitted in connection with intercollegiate sporting events.

Policy No. 8 of the NCAA's Recommended Policies and Practices for Intercollegiate Athletics sets forth recommended actions to be undertaken by member institutions to combat the gambling menace. Such recommended actions include counseling of students, expulsion of students associated with gambling interests, and support for the enactment of stronger antigambling legislation. Specific rules have also been adopted to minimize or end opportunities for the influence of organized gambling on NCAA-sanctioned events. Specifically, rules prohibiting outside basketball competition and postseason basketball practice, and limiting the number of games allowed per season, among others, are designed to ensure that intercollegiate games are played in a normal college atmosphere and to make it as difficult as possible for outside influences to reach the participants.

The NCAA's security programs are a normal part of its overall enforcement and events operations. The primary responsibility for enforcement, however, lies with individual member institutions and affiliated regional conferences. When violations of local or Federal law may be involved, close liaison is maintained between the institution and the appropriate law enforcement agencies until the case has been disposed of.

The NCAA's antigambling policies, rules, and countermeasures are not based upon arbitrary prejudices, but are responses to specific abuses that have occurred as the outgrowth of sports betting activities. The specific rules governing Policy No. 8 stem directly from the point-shaving scandals in college basketball in the early 1960's. It is this

type of experience that clearly shows the inadvisability of legalized gambling on team sports and demonstrates the necessity for even stricter antigambling legislation.

The NCAA has no informed opinion regarding the extent of gambling on college events, but it appears that illegal gambling does take place. Although there have been a few instances of student gambling, NCAA files show no instance since 1961 in which a student, coach, or official endeavored to alter illegally the outcome of a game or affect the margin of victory of an NCAA event. This is attributable not only to the efforts of the NCAA members to prevent illegal gambling from affecting college athletics, but also to Federal statutes limiting gambling activities and to quick reaction by law enforcement officials in investigating reports of betting by college athletes and other gambling activities involving collegiate sporting events.

This is not to say, however, that existing statutes and enforcement efforts are sufficient to prevent future scandals. The increasing sophistication of gambling organizations and the growing interest in gambling for individual profit or for State treasuries demand more comprehensive legislation and stronger law enforcement and prosecution. The NCAA recommends the enactment of Federal legislation prohibiting activities in interstate commerce in pursuit of gambling on any team sporting event.

All sports are intertwined in the public mind. Doubts about the integrity of any one sport would quickly spread to other sports. It would be especially unwise to legalize betting on high school and college sports because of their particular vulnerability to the undesirable effects of gambling: The extensive scope of these activities would make it impossible under a system of legalized gambling to protect participants from increased attempts to influence the outcome of sporting events. To ensure the integrity of competition and of individual participants in the context of legalized sports betting would be prohibitively expensive and impossible to monitor.

The legalization of sports betting would also open up campuses to gambling and increase tremendously the exposure of student athletes to pressures from gamblers. "To subject these youngsters who are already under considerable academic and competitive pressure to added pressures of defending themselves against improper attempts to influence the outcome of events in which they participate would be unconscionable," the NCAA said.

Finally, the legalization of gambling on college sports would thrust intercollegiate programs into an environment hostile to their basic principles. Open and widespread wagering on contests is clearly inconsistent with fundamental concepts of amateurism in sports. Moreover, it would cause many institutions to question whether college

sports conducted in such an atmosphere remain valid educational programs. As a consequence, a grave threat would be posed to the continuation of competitive college athletic programs.

Questioning by Gambling Commission members covered these basic areas:

1. Publishing of point spreads. Formal efforts to deter the publishing of point spreads in newspapers have been abandoned because they were ineffective from a national standpoint. The question of freedom of the press and free speech are also issues to which the member institutions are especially sensitive. If there is no first amendment issue involved, it would be a good area for Federal legislation. If it is in fact true that the publication of point spreads is a strong stimulus to sports betting, the NCAA is not aware of it.

2. Gambling-related responsibilities of the NCAA. The primary responsibility of the NCAA is to ensure the integrity of the players and of the universities they represent.

3. Federal antigambling legislation. The NCAA does not wish to involve itself in the issue of States' rights, but feels that Federal prohibitions are needed to prevent the spread of legalized gambling. "It would take away our greatest deterrent with our athletes, to keep them constantly aware of the problem that they have in associating with these people (gamblers)," the NCAA said.

4. Current influence of betting on NCAA events. The NCAA does not have specific information concerning the present effects of gambling on its players or contests. The vigilance and actions of coaches at the institutional level have kept this from becoming a problem. Legalization would produce pressures on the players and place them in a different atmosphere from the one prevailing today. Legalized gambling would make it more difficult to maintain the integrity of competition and the educational purposes of NCAA events.

5. Point shaving scandals in college basketball. Contacts were initially made through former players who were gamblers rather than bookmakers. There is evidence that this activity was financed by bookmakers in some areas of the country. The legalization of sports betting would increase the number of those trying to get inside information and fix games. The amounts bet do not make a great difference: Whether the bettor is wagering \$25 or \$10,000, he will want as much inside information as possible.

6. Legalization of betting on professional sports. The public would be unable to make a distinction between legalized betting on professional sports and illegal betting on collegiate sports.

7. Efforts to regulate gambling violations. The administrative head of each institution is required to certify annually that no staff member is in violation of NCAA regulations. On a conference level, each coach in each sport is visited by an NCAA representative. Discussions are held with basketball and football squads at least every 2 years concerning their responsibility to report to their coaches any instance of gambling of which they are aware.

8. Betting practices of college fans. Attendants at NCAA events are alumni or residents of the area who attend the games because of affiliation with the institution, not to see if they have won or lost their bets.

Analysis

The NCAA is aware of the considerations involved in the question of legalized sports betting, but says that its primary responsibility is to its member institutions to oppose any actions that could prove detrimental to the integrity and educational value of its programs. Mr. James' testimony set out the NCAA's strong opposition to the legalization of sports betting, which the association sees as "...a grave threat...to the continuation of competitive college athletic programs."

One of the NCAA's strongest arguments against legalized betting on nonprofessional events hinges on the great number of games played annually. All of the schools involved in these contests would demand stringent security measures, which the NCAA could not afford and would probably refuse to finance if such betting were approved over its objections. Legalized betting could possibly be monitored on the smaller scale that exists in professional sports, but if security measures are to be adequately enforced as a provision of any legalization law, the cost of such enforcement for the thousands of NCAA events each year militates against it. It is not yet known, however, whether a greater number of bettors and a greater number of events on which bets could be legally placed would increase the incidence of attempts to gain inside information, shave points, or fix games, and/or change the motivations of fans. If it is determined that such a cause and effect relationship exists in this area, it would probably be unwise to legalize sports betting on nonprofessional events.

The NCAA does not believe that betting on its events is widespread among participants or patrons. The Gambling Commission feels that the NCAA is underestimating the extent of gambling on college sports and voiced concern over the effectiveness of the recommended actions provided for in the NCAA's Policy No. 8. This policy stipulates that all those connected with the intercollegiate athletic programs of the

member institutions shall deport themselves with honesty and sportsmanship at all times, but these principles of ethical conduct, in themselves, seemingly do not provide for adequate regulation of potential infractions committed by alumni, coaches, players, or others who do not live up to these standards in the performance of their responsibility to the NCAA. Beyond this self-regulation, what resource can the NCAA apply to insure the complete integrity of competition among its members?

The NCAA believes that when all sports gambling is illegal, it can enforce its Policy No. 8 with the greatest effectiveness, but it appears to be ignoring the substantial amount of illegal gambling on NCAA events. The association said that it is trying to protect its own interests, but it should also realize that maintaining the status quo is no solution to the growing problem of illegal sports betting on both professional and collegiate athletic events. The Commission is eager to work with the NCAA in developing recommendations that will solve this problem.

TESTIMONY OF:

- George Killian, Executive Director, National Junior College Athletic Association

FEBRUARY 20, 1975

Prepared Statement and Testimony

The National Junior College Athletic Association is a nonprofit organization representing more than 555 institutions throughout the United States. Its purpose is to promote junior college athletics on regional and national levels so that the results will be consistent with the total educational programs of its members.

The NJCAA is opposed to any attempt to legalize sports betting. The association feels a moral and ethical commitment to its membership to see that sports betting does not contribute to the problems now being experienced in intercollegiate athletics. If junior college programs were subject to betting, it would place a tremendous strain on the players and coaches and bring a new, unwanted dimension to the games. The present methods of law enforcement may not be entirely effective in combating gambling activities in this country, but the NJCAA feels that the solution to this problem is more effective enforcement of the existing laws, not the legalization of sports betting.

Although junior college events have appeared on parlay cards and other gambling literature in the past, the NJCAA believes that betting on junior college games is nonexistent and has not affected the integrity of competition in the NJCAA. The association feels, however, that legalization of sports betting would create a new market of bettors and increase the likelihood of student betting and point shaving scandals.

To date, the NJCAA has not supervised any sports betting activities because it does not believe it is a problem. It would be an impossible economic burden to finance a security force. A security force would drastically alter the NJCAA's method of operation. Most junior college athletic programs are sponsored by student activity fees, booster clubs, and gate receipts. Every athletic department needs additional funds, but as a national organization responsible for the integrity of junior college athletics, the NJCAA is not willing to support legalized gambling for the small amount of money it might bring in.

Questioning by Gambling Commission members covered these basic areas:

1. Effect of legalization on NJCAA events. Most NJCAA institutions are located in suburban and rural areas of the country and are a source of entertainment for the local population. These junior colleges draw greater audiences than do the institutions in the larger urban areas. There is presently little or no gambling in these rural areas, or on NJCAA games, but this could change dramatically if sports betting were legalized.

2. Effect of legalized betting on professional or major college events. Legalized gambling will filter down to the junior college level because a number of people will want to include junior college games on their parlay cards. The association is pleased that its games no longer appear on parlay cards or rating sheets, and feels that it is running the purest amateur intercollegiate program possible.

Analysis

The National Junior College Athletic Association is proud of its record regarding illicit gambling activities and reiterated throughout its testimony that its games are not subject to point spread considerations and that betting on its games is nonexistent. In the major urban areas of the country, where junior college sports events take a back seat to professional and NCAA attractions, this is probably true, although there are no substantiating statistics. Department of Justice figures show that illegal sports betting is not only an urban phenomenon, but exists in every section of the country. Thus, if junior college events are the major attraction in a given area, it is reasonable to assume that some percentage of this wagering is taking place on NJCAA games. An accurate profile of the types of events currently attracting illegal bets is needed to verify or dispute the claims made by the NJCAA concerning its immunity to illegal gambling. It is expected that the study to be conducted for the Gambling Commission by the Survey Research Center at the University of Michigan will shed some light on the activities of bettors throughout the country and their affinity for junior college events.

The NJCAA did not discuss the peripheral gambling issues in its testimony, but touched only on those questions that directly affect its programs. From its point of view, it currently has no gambling-related problems and fears that legalization would only create such problems, while at the same time failing to deal as effectively with illicit gambling as more stringent law enforcement could. The NJCAA must, of course, protect its best interests, but it should also realize that

there are more issues involved than the alleged loss of integrity in sports. The NJCAA could lose a great deal in terms of integrity, security, money, and the amateur standing ascribed to its events if legalized gambling initiated a new generation of bettors on junior college events.

Betting on sporting events, including in reality a small percentage at the junior college level, will continue to thrive regardless of its legality or illegality. The junior colleges did not wish to leave the impression that they are not aware of the present gambling situation, but they do not seem to appreciate the scope of illegal gambling presently being conducted on all types of sporting events. There is yet no evidence to indicate that the legalization of sports betting has seriously or continuously interfered with sporting events in those countries where the Gambling Commission has tried to ascertain its effects. This does not mean that tampering will not occur with greater regularity if sports betting is legalized in this country, but it would indicate that organizations like the NJCAA are expressing opinions rather than using documented evidence in their condemnation of proposals to legalize sports betting in many areas of the country.

It could be assumed that any legalization plan would attempt to incorporate numerous safeguards to maintain the present level of integrity in collegiate and professional athletics. These security precautions would probably not satisfy the sports leagues and collegiate organizations, but if legalized sports betting is to compete with, or serve to eradicate, illegal gambling, it might seem that collegiate events would be included in the government programs.

TESTIMONY OF:

- Larry Merchant, Sports Columnist, New York Post; Author of The National Football Lottery

FEBRUARY 20, 1975

Prepared Statement and Testimony

Sports betting should be legalized but only if it is structured in such a way that it does not endanger sports.

People want to gamble and the laws prohibiting them from doing so cannot be enforced. The resultant social contradictions are familiar: bribed law enforcement agents, with a resulting loss of public confidence; plea bargaining and miniscule fines that mock and overcrowd the courts; and the enrichment of organized crime. In sum, the current prohibitions are a waste of the law's time, energy, and resources and make no appreciable dent in the betting apparatus.

Government-operated betting cannot compete with the illegal apparatus, and it should abandon any attempt to do so. It should not act as the legal bookmaker because (1) big bettors often bet with untaxed money and would not risk exposure by dealing with a government agency; (2) the government could not provide short-term credit or other amenities that many bettors require; and (3) the danger of fixed games would increase markedly if government were the bookmaker. The government could not hope to be as sensitive to fluctuating odds and unusually large bets that may indicate a betting coup. It is often impossible to make unusually large bets with bookmakers, but it would probably be possible to spread tremendous sums among legal betting shops without detection.

If legalized betting is to compete with the illegal operation, the government should license bookmakers rather than conduct the operation itself; it should also abolish the tax on winnings.

Any legal betting operation must provide short-term credit, fast service, and action on every game, college as well as professional, that illegal bookmakers offer. There would obviously be strong opposition to betting on collegiate events, but if legal bookmakers cannot provide the service, bettors will support illegal bookmakers who do.

The tax on winnings is punitive and would be counterproductive to legalized sports betting. It is punitive because few gamblers show a profit at the end of the year. It would be counterproductive because the seasoned bettor would continue to use the illegal bookmaker. The low margin of profit does not permit the legal bookmaker in Nevada to absorb the 2 percent excise tax. When the customer is forced to pay a

tax, he will return to the illegal bookmaker. People will pay 12 percent if they can lay down a bet for 10 percent, 11 to 10 being the normal odds with an illegal bookmaker.

The government would benefit in numerous ways if it licensed bookmakers. A State or municipal licensing board could screen applicants and determine qualifications for licenses. Revenue could be generated from license fees, taxes on profits, the creation of jobs, and the unburdening of law enforcement agencies. It could possibly drive organized crime out of gambling, and legitimize the independent bookmakers who would like to operate in the open as ordinary businessmen. Utilizing the existing apparatus would ensure against betting coups, and could offer the services veteran bettors are accustomed to receiving. Bookmakers have as much at stake in the protection of the integrity of sports as do the sports themselves. Legal bookmakers could also dispense parlay cards, which provide a much larger margin of profit than bets on individual games.

Parlay cards could generate a fairly substantial source of revenue and be distributed without increasing the threat of gambling scandals in sports. There is a marked difference between parlay cards and European soccer pools. The latter encourages fixing attempts by offering tremendous odds and payoffs. Although there have been scandals, soccer continues to thrive, and enthusiasm for the game--outside of betting--remains high. There is little or no cynicism or dishonest interest in soccer due to gambling. If anything, gambling has heightened interest in the game. If an American bettor wished to improve his chances to win a parlay by fixing a game or two, he might as well bet on the individual games.

The possibility of a fix in professional sports is minimized today because of the high salaries ballplayers receive. Most players will not risk an entire career to cash in on a fixed game. Fixes will continue in isolated instances because of the rare player who is willing to take the risk.

The increasing popularity of betting can be attributed to the symbiotic relationship enjoyed by sports, gambling interests, and television. Its legalization would cast no more, and perhaps less, suspicion on the integrity of games than currently exists in the shadow world of illegal gambling. Billions of dollars are bet illegally on sports at present; its legalization would not drastically change the climate of integrity any more than it has changed under OTB in New York.

The interest of fans would not change noticeably from the winning of games to the winning of their bets--these passions cannot be differentiated. It is absurd to believe that fans in the stadium would root against the home team or criticize mistakes more vehemently than they do now. Such has not been the case where betting is legal. Bettors add

rather than subtract a dimension to the game. Excitement would be maintained in the game well after the outcome on the field has been decided. For bettors, the game is never over until time runs out.

Legalized gambling would more than likely increase the number of bettors, or at the very least, bring them out in the open. Contrary to the worst fears of OTB opponents, officials expressed disappointment in the numbers of new bettors that were created.

Legalized gambling is opposed in America because of conflicts of interest and/or social theology rather than social reality.

Questioning by Gambling Commission members covered these basic areas:

1. Gambling and attendance. Betting is both a reflection of and a stimulus to attendance. Betting and bettors contribute to the ambiance in the ballpark rather than subtract from it. There is little or no difference between the passions of a bettor and an ordinary fan. Mr. Merchant estimated that well over one-quarter of the attending fans have some kind of wager on the game they are watching.

2. Social vs. bookmaker betting. Mr. Merchant said he felt there is a definite distinction between the two types of betting, but he could not define it precisely. He agreed with Jimmy Snyder that there is not as much high-powered betting as there has been in the past; the laws barring the interstate transfer of gambling information have tended to minimize it. Mr. Merchant also agreed with Mr. Snyder that perhaps half the people at an average NFL game have a bet from a dollar up.

3. Point spreads. Point spreads benefit the people who are interested in betting on upcoming games, but people who do not bet are often as interested in the spreads as people who do. Spreads have always been used as points of reference for upcoming football games.

4. Bookmakers. Bookmakers will take part in a betting coup if they can find out about it. But the rest of the thousands of bookmakers who do not know about it want the games to be as honest as possible. The bookmakers Mr. Merchant has talked to would prefer to operate legally, and most of them have never been involved with any kind of fixing attempt. The volume of betting has increased so dramatically in the past 10 years that they can make lucrative livings without having to resort to fixing attempts, just as high-salaried ballplayers are no longer as susceptible to fixing schemes.

5. Fixes. The danger of fixed games would not increase with legalized betting. The last time the illegal apparatus suspected a fixed

(NFL) game was 9 years ago. Whatever dangers exist now would exist with legalized gambling. There are so many billions of dollars being wagered now, there is surely enough to try to fix a game, if somebody were disposed to try.

Analysis

Larry Merchant is a self-acknowledged bettor who favors the legalization of sports betting for two reasons: (1) he would prefer to donate his losses to the government or a licensed operator rather than to illegal and sinister elements; and (2) he believes that legal betting would cast no more, and perhaps less, suspicion on the integrity of sports than does the shadowy world of organized criminal gambling.

Morality, he says, is not the question; rather, the question is can legalized gambling work for society better than rampant illegal gambling without jeopardizing the integrity of sports? Mr. Merchant claims that legalized sports betting would not endanger the integrity of sports any more than illegal gambling operations do, but there are no reliable statistics or testimony reflecting the present level of tampering in professional sports by organized crime. The commissioners of the various leagues and Merchant's bookmaking acquaintances claim that the present level of sports integrity is beyond doubt, but as Merchant himself admitted, the danger of a fix will always exist whether or not gambling is legal. If the Justice Department's estimate that between \$29 billion and \$39 billion is wagered illegally each year is correct, it would appear that there is sufficient capital to organize a fix if one were so disposed, and would lend credence to the argument that legalized betting would not alter this situation. More accurate information must be assembled on this question before any proper determinations can be made concerning the possible effects of legalized sports wagering.

From a bettor's point of view, Merchant sees the licensing of bookmakers as the only solution to the waste produced by illegal gambling. Tougher antigambling laws, he stated, will not stop people from gambling or stop the flow of billions of dollars to organized crime. And because gambling will continue whether legalized or not, Merchant feels that it should be channeled to benefit society rather than remain a burden to it. He admits that there would be increased social costs, but insists that these have been overstated by those who believe that legalization would transform millions of fans into compulsive gamblers. The Commission in its research will attempt to determine what these "increased social costs" might be.

Merchant equates the present gambling situation with the prohibition era in that the demand for the product outstrips official ability or desire to enforce the law. Evidence received by the Gambling Commission corroborates Merchant's belief that the level of gambling in the United States is well above the estimates supplied by a recent Harris Poll. Sports commissioners used this poll to endorse their position that gambling on sporting events is not a widespread activity at present. But the Commission is presently unwilling to accept Merchant's thesis that this activity is so widespread that nothing short of full-scale legalization would alleviate the problem.

Merchant's arguments reflect many of the concerns raised about legalization whenever it is discussed, but he does tend to minimize the risks involved in legalization. If the sports commissioners have correctly judged the appeal of their products to their fans when they argue that the appearance of honest competition is more important than its actuality, the mere existence of legalized gambling could undermine the profitability of sports. If this is true, the credibility of sports could be damaged permanently.

If Merchant's plan for the legalization of sports betting is adopted, there is no assurance either that it could compete with organized crime, or that it would not be used profitably by organized crime. It is reasonable to assume that organized crime would not allow one of its major sources of revenue to slip away without making an effort to save it. Even if bookmakers are sanctioned by the government, they would still be in business for a profit and would still try to take advantage of betting coups if they come across them. Merchant claims that this does not happen often and that few bookmakers ever hear of a fix, but the fact that such activity would be possible in a government-sanctioned operation, which would attempt to eliminate every potential for abuse in its system, could militate against the government's adopting such a plan.

Throughout his testimony, Merchant based many of his conclusions about the effects of legalization on the example of OTB in New York. One of these conclusions was that OTB has not attracted a plethora of new bettors--that those who patronize OTB are the same people who had been betting illegally. Horse betting is, however, a closed market and does not have the wide appeal to the average sports fan that legalized sports betting could generate. It seems doubtful that a direct correlation could be made between the demographics, volume, and success of legalized sports betting and those of OTB. Statistics compiled by the FBI and released by the Justice Department indicate that horseracing garners roughly 11 percent of illegal wagering in this country, while sports betting captures approximately 65 percent of this market. Presumably these figures would not vary to any significant degree if betting were legalized; thus the volume and novelty of sports betting could create a myriad of problems unforeseen by its proponents.

By advocating such a major change in government policy and social thinking, Merchant feels that few problems would arise, and that the possible social costs would be well worth the proposed social benefits. Whether legalized gambling could work better for society than a continuation of or an increase in the efforts to enforce existing laws is still an unanswered question that will continue to cause controversy regardless of the recommendations made by this Commission or actions undertaken by State and local governments.

TESTIMONY OF:

- Joseph Scelzo, President, Amateur Athletic Union
 - Ollan Cassell, Executive Director, Amateur Athletic Union
- FEBRUARY 20, 1975

Prepared Statement and Testimony

The Amateur Athletic Union is unalterably opposed to gambling of any kind that depends on human performance, particularly if it involves amateur sports or sportsmen. A sport that depends on gambling to increase its popularity is not a sport, but rather a contrived activity not worthy of idealism or human participation.

The adverse implications for the athletes involved make it imperative that gambling not be tolerated in any form, least of all legalized and encouraged by government initiative, approval, or involvement.

In the 87-year history of the AAU, there has never been a gambling scandal arising out of an AAU-sanctioned event. Legalized gambling would violate not only the principles of amateur athletics, but also the principles behind the international Olympic movement. If gambling were legalized, it would eventually spread to amateur sports. The United States would eventually have no teams in world championship or Olympic games. The AAU is a volunteer service organization motivated by high ideals. Its composition would be drastically changed, or the organization eliminated, if gambling were to become associated with it. It would be financially and organizationally impossible to assemble a similar body if gambling proved to be a significant influence in amateur sports.

Questioning by Commission members covered these basic areas:

1. Effect of legalized gambling on AAU events. Mr. Scelzo stated that athletes who participate in professional sports might become involved in gambling if it is legalized. The AAU has no knowledge of any adverse effects that legalized gambling has had on amateur sports in those countries that permit betting on professional or amateur sports.

2. Banishment from the Olympics. If gambling is legalized, the government would have to control every aspect of amateur sports, which is against Olympic regulations.

3. Effect on the amateur athlete. The AAU believes that the real danger of legalization involves the possible change in attitude among the athletes. Gambling could change their love for sports to materialistic considerations. Possible banishment from the Olympic Games would

not be as bad as the effect legalized gambling would have on the ideals of the amateur athlete.

4. Difference between illegal and legal betting. The AAU is aware of the degree of illegal gambling today, and pointed to its unblemished record of 87 years as proof that it can exist with illegal gambling. The union argued, however, that the situation could change dramatically if betting were legalized. The psychological difference between right and wrong would disappear and the consequences would be unknown.

Analysis

There are no statistics available on the popularity of betting on amateur sports (excluding college football and basketball games), but information on betting habits compiled by the FBI indicates that there is little gambling action on AAU-sanctioned events. AAU events do not enjoy the tremendous nationwide following that the major professional and NCAA sports attract and would therefore not be subject to the same amount of illegal wagering as are these other sports. The Olympic Games and other major amateur attractions could conceivably attract large amounts of betting if it were legalized, but this is purely speculation at this point. With greater television exposure of AAU events, however, the public's knowledge, appreciation, and tendency to bet on these attractions can only increase.

The organization and goals of the AAU are substantially different from those of the other major sports organizations. The amateur athlete presumably performs for the sheer enjoyment of competition and is not striving to do his best so that next year's contract will be larger. There is a danger in this pure amateurism, however, in that many AAU competitors have to make a living while they are competing and could possibly be influenced to accept a bribe if they needed the money. This may be a cynical argument, but one which is not outside the realm of possibility when one considers the hardships that many of America's Olympic athletes must endure in order to compete with a perfect amateur standing. (In some countries, Olympic competitors are professional athletes.)

The AAU is trying to protect a reputation that it says has remained unblemished for 87 years and will seemingly remain so in the future. Its opposition to legalized gambling is understandable. But it can be argued that if professional sports betting were legalized while amateur sports betting remained illegal, organized crime could benefit. Authoritative statistics on the popularity of betting on AAU sports and events are needed so that policies governing this type of activity will be in line with current actual activity. If there is

genuinely little interest in wagering on AAU attractions, there would be little reason to sanction betting on these events. But if the reverse is becoming increasingly true, legalization of betting on amateur events should not be ruled out.

TESTIMONY OF:

• Guy Mainella, Radio Talk Show Host: "Calling All Sports,"
WBZ Radio, Boston, Massachusetts
FEBRUARY 20, 1975

Prepared Statement and Testimony

Gambling on sporting events should not be legalized. The risks involved far outweigh the uncertain economic gains promised by gambling proponents. Moreover, it is questionable whether organized crime will suffer if the States sanction gambling on sporting events.

Sports cannot satisfy all the demands placed on it by the public, which relies on it to provide a temporary respite from daily problems. Sports' capacity to entertain has already been stretched to its limit. If millions of citizens are allowed to wager on sporting events, a new and potentially devastating demand is placed on sport: It would become a possible vehicle for economic gain.

The fan who wagers money on a sporting event not only demands victory for psychological and aesthetic reasons, but for an even more potent reason: money. Whether his favorite team wins or loses would no longer be paramount in the mind of the betting fan. Legalized gambling would forever alter the constructive impact of sporting events at a cost to the traditional and wholesome perceptions of sports held by most fans.

One rationale offered in favor of legalization is the inability to enforce existing laws and the allegation that law enforcement officials have been corrupted by those who control gambling. These charges are correct, but that does not mean they form a logical or persuasive rationale for legalized gambling. A nation of laws should have both the resolve and the wherewithal to enforce laws still deemed to be in the best interests of society. Enforcement of gambling laws has never been attempted with maximum vigor, and it is therefore inaccurate to say that the police are incapable of coping with gambling violations. Legalized gambling would have a minimal effect on the profitability of illegal gambling and would serve only to multiply gambling opportunities and their attendant possibilities for increasing the burdens on law enforcement officials and other undesirable social effects.

Sports is already being threatened by illegal gambling. It is the responsibility of the leagues to guarantee the integrity of their games by employing every reasonable effort, consistent with the law, to keep gamblers away from athletes, coaches, and owners, but this diligent effort is not always evident. Sports leagues should not have to contend with the extraordinary burdens that legalized gambling would place on their games.

The fans who support legalized sports betting seem well-intentioned, if misled. They appreciate the promise of substantial government revenue, but they do not realize that this gimmick taxation that threatens sport is clearly regressive. The revenue potential from legalized gambling is not impressive. At most, only 2.5 percent of a State's budget could be financed by gambling revenues, which would approximate its share from the Federal Government's revenue sharing program.

The public should demand from their leaders a respect for institutions, particularly those which afford pleasure as sports surely does, and something beyond the philosophy that an idea should be embraced simply because it generates profit. Can State governments legalize sports betting despite the great risks involved without promising their citizens austerity and responsibility in administering current revenues?

It has been argued that legalized gambling would provide a stimulus to sports by making fans participants in the action. Sport does not require such artificial stimulation, and government need not be so devoid of progressive means to generate additional revenue that it must sanction gambling on sports to raise money. If sports betting is legalized, there will be a calamitous and precipitous decline in sports in America and in public trust in government.

Sports no longer retains its purity, but remains pure enough to provide stimulation and satisfaction for millions of fans. It would be tragic to tamper with this union between the fan and his games for the little economic gain that would be outweighed by so many debits and so many perplexing and unanswered questions.

Questioning by Gambling Commission members covered these basic areas:

1. Opinions expressed on gambling-related subjects by callers to Mr. Mainella's radio program. Sixty percent favor legalized gambling on professional sports, and a higher percentage, perhaps 75 percent, oppose betting on college sports. On another subject, Mainella's callers expressed no interest in having local police officers make a more diligent effort to police gambling. His listening audience perceives street crime, robbery, burglary, and assault as a much greater danger than gambling violations.

2. Mr. Mainella's view on gambling in general. Mainella is opposed to gambling with the exception of betting on horses and dogs. He is opposed to the legalization of sports betting because of his concern for sport and the regressive nature of such taxation.

3. Trend toward legalization in the New England area. There is a great fervor and movement in favor of legalization in Massachusetts and generally in the New England area on the part of legislators, public officials, and in some instances law enforcers. WBZ radio, Mainella's employer, broadcasts editorial campaigns in favor of legalized gambling on sport.

Analysis

Mr. Mainella stated that if millions of people were allowed to wager on sporting events, sports would become a potential vehicle for economic gain, an eventuality Mainella views as potentially devastating. But sports, particularly professional sports, already is a vehicle for economic gain--for players, team owners and managers, stadium owners, concessionaires, equipment manufacturers, television and radio stations, sports writers and commentators, companies that sponsor sports broadcasts, and governments, which collect taxes from all of the above. It could be asked why fans should be denied the opportunity to earn (or lose) some money through sports events.

Many opponents of legalized sports gambling, including Mr. Mainella, perceive a conflict of interest between the game attendant as sports enthusiast and the game attendant as bettor. In almost all cases, they see the financial investment of the fan as taking precedence over his aesthetic interest in the competition, or more important, his loyalty to the home team. Assuming this to be true in a substantial number of cases, it may be fallacious to equate loyalty to the home team with loyalty to the sport in general. For example, a fan who bets against his home team on occasion may be as genuine a sports enthusiast as the fan who bets only on his home team or the fan who refrains from betting. If gambling were legalized, players might find themselves receiving only half of the fan support at home games rather than the almost total support they are accustomed to; while at away games they could also receive about 50 percent of the fan support instead of the almost nonexistent support they are generally accustomed to. The measure of a fan's loyalty in this situation would be not whether he bet on his home team but whether he continued to attend games.

Mr. Mainella believes that the proponents of legalized gambling overestimate the potential revenue legalization would produce for individual States. Mainella stated that if the projection of the Twentieth Century Fund study is accurate, only \$5 billion, or about 2.5 percent of the revenues necessary to operate the States, would be generated through legalization. This Commission is attempting, through its own surveys, to determine how much revenue could be produced if various types of gambling were legalized.

Mr. Mainella recognizes that illegal gambling on sporting events is a serious problem and sees as the solution stricter enforcement of gambling laws. He believes that the police are capable of coping with gambling violations. But most of the local-level law enforcement officials who testified before the Gambling Commission stated that current gambling laws are unenforceable--because they do not have the support of the general public and because law enforcement agencies lack the time, money, and manpower to conduct thorough gambling investigations.

Mr. Mainella is a loyal and knowledgeable sports fan who believes that sports has nothing to gain through the legalization of sports betting. He states that legalization would be unsuccessful in raising revenue for governments and unsuccessful in combating organized crime. The sports betting controversy may be the single most difficult issue facing the Commission. Should the Commission's research indicate, for example, that legal sports betting could substantially weaken organized crime, it would still have to decide whether this goal is worth pursuing in face of the almost unanimous opposition of those who know and love sports the best.

STATEMENT SUBMITTED BY:

• J. Walter Kennedy, Commissioner, National Basketball Association
FEBRUARY 19-20, 1975

Prepared Statement

The National Basketball Association is unalterably opposed to the legalization of gambling on professional sports. Legalized sports betting would not compete effectively with its illegal counterpart, would not produce significant revenue, would have minimal impact on organized crime, and would place government in the role of promoting an activity that encourages gambling by those who can least afford it.

For a professional athletic league to survive, the public must have confidence in the integrity of competition between its teams. The existence of the league, and the moneymaking potential of its players and officials, depend upon the public's belief in the inviolable honesty of professional sports. All professional leagues prohibit, in direct and stringent terms, gambling on league games by owners, players, and other employees in order to prevent the "fixing" of games or the "shaving" of points. When the standards of fair play, good sportsmanship, and honesty are abandoned, sporting events become the property of gamblers and racketeers.

Betting by players and officials is relatively easy to prevent as long as gambling remains illegal in almost all States. However, the legalization of sports betting would make every adult citizen a potential gambler rather than just a fan. A new generation of fans would be more concerned with the margin of defeat rather than with who wins or loses the game. Every missed basket, poor play, choice of strategy, or substitution would become an economic factor; cynicism would replace family fun.

The potential abuses are endless and would lead to the destruction of professional sports in this country because of the irreplaceable loss of confidence in the integrity of competition.

A questionnaire prepared by the Gambling Commission for the NBA covered these areas (Mr. Kennedy did not appear at the February hearing but commented on these issues without cross-examination from the members of the Commission.):

1. Integrity in the NBA. The NBA believes that illegal betting has not affected the integrity of its games. To its knowledge, there has been no incident in which an athlete or official has endeavored,

or reported that he had been asked by someone, to affect illegally the outcome of an NBA game.

2. NBA security measures. The NBA security program is always alert to the possibility of illegal gambling on NBA games. The security network maintains liaison with local, State, and Federal law enforcement agencies in each of the 18 franchise cities. On numerous occasions in the past 10 years it has sought and received assistance from these agencies in deterring potential gambling problems. The NBA has kept abreast of undesirables in the league or undesirables who associate with persons in the NBA.

3. Effect of legalization on the economics of the NBA. Should sports betting ever be legalized, the NBA club owners would have to decide if the league or the teams should receive any percentage of the amounts bet as compensation for the exploitation of the game and its potential destruction. Attendance in some of the franchises could possibly increase, but the overall effect could be destructive to the financial stability of the league.

Analysis

The antilegalization position forwarded to the Gambling Commission by the NBA concentrates on two points: (1) the current high level of integrity enjoyed by the NBA; and (2) assumptions made by the league concerning the adverse effects of legalized sports betting. The NBA concurs with other sports leagues in their firm opposition to legalization. It bases its arguments on recent professional studies and legal opinions furnished by the Twentieth Century Fund, the National District Attorneys Association, and others, and its own policy determination that legalized sports betting could cause the destruction of its sport. The validity of the claims made in these studies and opinions has yet to be determined. It is perhaps the most important function of this Commission to ascertain as accurately as possible what effects legalized sports betting would have on the sports industry and on the present illegal gambling industry.

Commissioner Kennedy did not, however, offer an opinion as to the extent of illegal gambling currently being conducted on NBA games. In light of the Department of Justice estimate that between \$29 billion and \$39 billion was wagered illegally in 1973--two-thirds of this total on sporting events--it is reasonable to assume that the current level of illegal betting on NBA attractions could be significant. If this estimate is an accurate reflection of the present illegal gambling situation, it would appear that the professional athletic leagues have managed to

retain public confidence in their contests in the midst of increasing pressures from the illegal gambling industry.

The NBA claims that legalized sports betting would make every adult citizen a potential gambler. It could be argued that this potential exists today without the legal sanction of government. Presumably a legal game would increase the number of bettors, and perhaps change the motivations of some fans, but it might be suggested that the NBA's continued opposition to legalization serves to aid illegal gambling operations. The league's position that "it is necessary to avoid any connection with gambling, gamblers, and those who do business with them," is exemplary, but whether this policy can withstand (or is presently withstanding) the pressures of illegal gambling, which also has the potential to destroy the integrity of professional sports, should be of as much concern to the sports administrators as are the efforts being made for legalization.

The NBA believes it is acting in its best interests by opposing legalized sports betting. The popular image of sports in America demands this kind of response to any proposal that could seriously alter the structure and fan appeal of the Nation's pastimes. If it is determined that legalized betting could impair the "purity" and popularity of professional sports, this fact must be weighed heavily in any policy determination made by this Commission or by a government concerning the expansion of legalized gambling.

STATEMENT SUBMITTED BY:

• Paul Screvane, President, New York City Off-Track Betting Corporation

FEBRUARY 19-20, 1975

Prepared Statement

The New York City Off-Track Betting Corporation began operation in 1971. It has since become the largest retailer in New York City. New York City OTB handled \$772 million in parimutuel wagers in its fiscal year 1974, which netted \$60 million for the city and State governments and returned \$30 million to the racing industry. Legalized gambling must not be viewed as the solution to government budgetary problems, but it can be one of the many useful devices employed to balance a budget in a manner politically acceptable to the public and at a socially acceptable cost.

There is nothing inherently evil about gambling. The Federal Government should not prohibit the States from making their own decisions concerning the legalization of any type of gambling. If there is no such interference from the Federal Government, it is inevitable that a number of States will legalize betting on sporting events. To prohibit such legalization would be a de facto acceptance that the illegal game cannot and should not be competed against, thus insuring a monopoly for the illegal enterprise. In light of statements made by the Justice Department that Federal enforcement efforts reach only 2 percent of the illegal activity, such a policy would be hard to fathom. It would not make sense for Congress to attempt to legislate morality in light of the general acceptance of gambling as a leisure time activity. It would be an act without substance and with virtually no chance of eliminating illegal gambling. Moreover, the Federal Government should not tax gambling winnings or restrict the types of games or sports that the legal operations might choose to offer. Any limitations placed upon the legal game would only perpetuate the illegal monopoly.

Government operation rather than private enterprise is the better solution for legal gambling since the social costs of gambling are not directly felt by private economic organizations. Government is under the strongest obligation to enact gambling legislation disadvantageous to criminal organizations and beneficial to government itself, the sports fan, the sports industry, and the public at large. Government and the sports industry are accountable for a solution to the problem of illicit gambling. A joint effort by government and the sports industry could devise wagering formats that would minimize the risks by using computer capabilities to provide increased security against illegal schemes. Gambling formats may be adopted without the cooperation of the leadership of the sports themselves if this leadership continues to maintain that all legal formats are unacceptable. Working together, sports could be

provided with income for pension plans, improved facilities, increased security, etc.

The sports industry contends that legalized sports betting would endanger the integrity of sports and of the athletes who participate in them. It is difficult to understand why legal betting should pose a greater corruptive influence than the present institutionalized system of illegal betting, or why sports betting administered by public officials should be less concerned with the integrity of sports than the illegal games' present management. The sports industry surely cannot mean that it prefers to make organized crime the guarantor of sports' integrity.

It must be clearly understood that those responsible for any legal betting operation would share those concerns raised by the leagues. There would be a community of commitment between government and the sports industry in maintaining the interest of the fans and protecting the integrity of the individual sporting events. "Let us lay to rest the peculiar notion that illegal betting games are 'safer' for any, save the criminal, than a publicly administered legal game."

Single event betting as it is currently conducted by bookmakers may involve too many risks for legalization at the present time, but it should not be ruled out for future consideration. Sports pool cards do not present these risks and could be successfully implemented. The government could offer a greater return on the investment, the number of games involved would discourage the would-be fixer, cards could be easily monitored and processed by computers, and half-point spreads could be used to eliminate "tie games" and make it easier for the bettor to win. The bettor using the legal card would have a distinct advantage over his illegal counterpart.

To the extent that sports can be contaminated by betting, the contamination is already present. To the extent that benefits can be derived from legalized sports betting, the present situation contributes virtually no plusses and all minuses. The time is appropriate for controlled experimentation with legalized sports betting, hopefully with the cooperation and participation of those directly involved with the administration of the sports.

Analysis

Mr. Screvane's arguments for the legalization of sports betting center around the question: "Why not?" He cites the inability to enforce existing laws, the potential revenue for impoverished government treasuries, and the widespread nature of the current illicit operations as reasons enough for its legalization under governmental control. The legal operation envisioned by Mr. Screvane could possibly capture the

parlay card market and generate large amounts of revenue for city and State governments. There are two unanswered questions, however, concerning the limited legalization of sports betting: (1) Is it possible to maintain the current level of integrity in sports? (2) Can such a system attract the existing illegal market? A legal sports betting system modeled after NYCOTB would undoubtedly generate millions of dollars in revenue and would be conducted under the most stringent security measures available, but its possible negative impact on sports, which unlike racing, do not owe their success to gambling, could materialize as the sports administrators have repeatedly warned.

The vast majority of illegal betting consists of wagers placed on single sporting events. Mr. Screvane said that this type of betting could not be implemented under a legal system at present without endangering the integrity of sports and/or the legal betting operation. Therein lies a major obstacle to the two goals of legalization: the eradication of organized crime and the creation of an economic windfall for government treasuries. Without single event betting and the amenities offered by bookmakers (short-term credit, last-minute service, intelligence networks, etc.), a government-conducted service could not compete in the marketplace with the all-encompassing illegal operation.

Mr. Screvane mentioned an Oliver Quayle survey that indicated that 80 percent of the illegal bettors in New York favor the legalization of sports betting, but there is no guarantee that veteran bettors would switch to the legal game in substantial numbers. It has not yet been determined what success OTB has had in attracting the illegal horserace betting market, or how many heretofore nonbettors have begun to wager as a result of OTB's legality and promotional campaigns. The same questions would surround a similar sports betting scheme in addition to the concerns raised by the leagues. The example set by OTB may not be applicable to sports betting because of the many qualitative differences between sports betting and horse betting, and between the popularity of the sports themselves. Further study is needed to ascertain with greater authority how the legalization of sports betting would affect illegal betting.

Mr. Screvane was not present at the February hearings; thus the Commissioners were not able to question him directly on his plan, or to determine his reasons for opposing the private operation of sports betting. As president of the Nation's largest legal betting system, his ideas concerning legalized betting should be considered and evaluated carefully against the opinions set forth by the sports industry and by those who favor a private enterprise approach to the problem.

STATEMENT SUBMITTED BY:

- Jack F. Kemp, Member of U.S. House of Representatives from New York; Former Professional Football Player in Both American and National Football Leagues

FEBRUARY 19-20, 1975

Prepared Statement

Sports betting should not be legalized because it would:

- (1) Place unconscionable burdens on the players and coaches;
- (2) Foster the destruction of the present goals of sport;
- (3) Prove to be costly to government; and
- (4) Produce an unnecessary intrusion by government into private conduct and commercial enterprise.

Effect on Players and Coaches. Legalized gambling would place an unconscionable burden on those active within sports because no participant could ever feel he was above suspicion. An athlete making an honest but critical mistake, such as a fumble on the goal line in an important game, could be haunted by his mistake for his entire sports career, perhaps even for life. Suspicion would attach itself not only to players, but to coaches and officials, and to anyone instrumental in the selection of a method or point of strategy for a game or a particular play.

Effect on Present Goals of Sports. The present goals of sports are ingrained in fair play, healthy competition, and above all integrity among the participants. Without this integrity, sports would cease to exist.

Players are aware--as are most knowledgeable people--that a certain amount of illegal gambling is based on a team's performance. The players are removed from any direct contact with the gambling element in sport because they are not gamblers themselves and have no interest in associating with those who do have gambling habits. Legalized gambling could alter this separateness between gamblers and athletes because the gambling element in society would be encouraged for the first time to express openly its desires and complaints. It would then be nearly impossible for players to avoid the passions and pressures of gamblers.

The present goals of sport teams are to win each game and become a contender for the championship. Under a legalized system of betting, the mere winning of a game would not be enough--winning each game by

the point spread margin would completely absorb the fan's interest. Thus this addition to sport of a Government-promoted gambling stimulation would ultimately undermine all the good will sports has built up over the years.

Consequences of Legalization on the Federal Government. In order to avoid the potential for inconsistent and contradictory regulation by the States, the Federal Government would have to create and maintain a sports betting authority to establish and administer a large, complicated, national bookmaking system. The problems that could arise from such a structure are myriad.

Financially, the Government's money interest would first require a substantial outlay to enlarge its security forces to protect against corruption. Secondly, the Government would have to be prepared to lose money, as well as make it.

The Government agency that loses money would have to be subsidized with tax dollars or admit error and abandon the venture. While countless Americans might feel that it is a matter of individual moral conscience to bet and gamble, they would not be pleased to see their tax dollars going to subsidize such behavior. If Government set up this machinery, lost money, and withdrew, the end result could do irreparable harm to sports.

The majority of fans do not gamble to any significant degree on the outcome of the games. Fans know that professional sports are grounded in integrity, for only when games are free of suspicion is the public interested. But a large number of fans--encouraged to bet by the advertising campaigns that accompany and are an integral part of legalized gambling--could easily become cynics, obsessed with point spreads and constantly prone to suspect and criticize the motives of players and coaches. This would be particularly true of those who lose more times than they win. The Federal Government would have to understand that there would have to be more losers than winners: in order for the Government to collect gambling revenues, the odds would have to be such that betting losses would outnumber gains. In short, one would build into the gambling system a pattern of growing discontent with sporting events.

Intrusion by Government into the Private Conduct of Sport. There are questions to be answered revolving around the alleged right of Government to gain revenue from the conduct of private contests. Government's interest in legalized gambling rests on its claim that it has a right to raise revenue from third parties--millions of gamblers--not associated with the private conduct of sport. Any such inclination by Government to intrude upon sports property rights for gambling revenue should certainly be contested in the courts by the professional leagues.

Professional sporting enterprises have been built, usually over many years, through the rigors of ownership, coaching, and play. Individual efforts, taken as a whole, make the team, but it is not without great expense to owners. Costs are going up: salaries, travel, groundskeeping, equipment, etc. It is presently unfair for Government, without having invested a penny in this process, to be beneficiary of those team and individual achievements.

Analysis

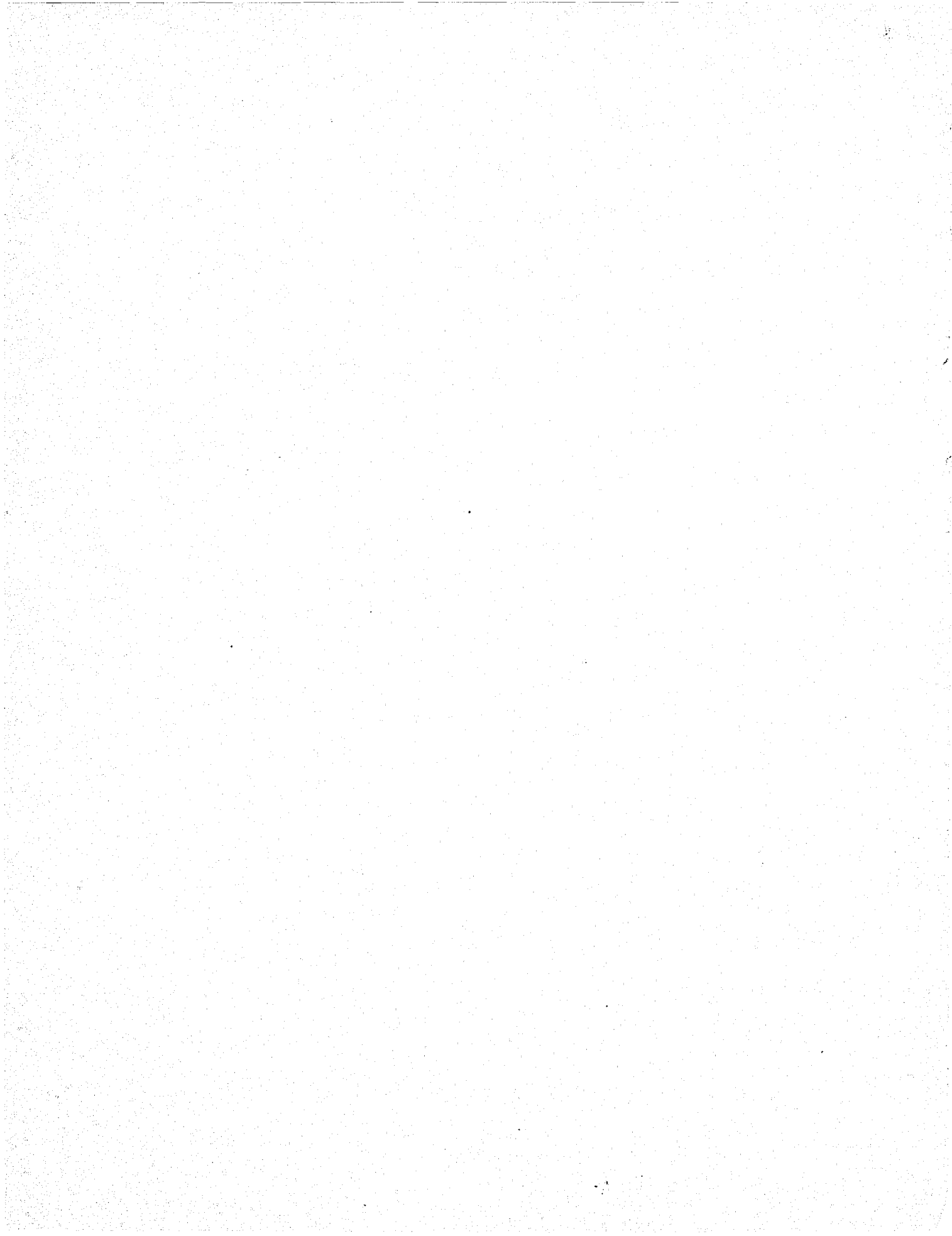
Because of Representative Kemp's background in professional sports and his membership in Congress, he is well qualified to comment upon the shaping of this Nation's policies on sports gambling. His prepared statement portraying the state of sports and society that might exist if a national legalized betting system were implemented was well conceived and will certainly serve as a guideline to any future legislation in this area. Unfortunately, Representative Kemp was unable to appear before the Commission and thus some points in his statement remain open for further discussion and possible reexamination.

Kemp's illustration of how the mechanics of a national bookmaking system would operate provide his strongest points of argument in opposition to such a system: From his description, a nationwide sports betting structure coordinated by a Federal agency would appear to be unworkable and a system of this nature would produce serious repercussions in sports and in the Federal Government. But his statement that the potential inconsistent regulation by the States precludes them from assembling their own operations may prove to be inaccurate. Some States are currently submitting to their legislatures referendums that propose the legalization of sport card betting. For the moment, the States appear to be going ahead with sports pool proposals without waiting for guidelines from the Federal Government or the National Gambling Commission. It remains to be seen whether, ultimately, some kind of Federal regulation will be needed.

Legalized sports card betting will not dislodge organized crime from its bookmaking enterprises but it does appear to offer a compromise between total prohibition and total legalization of sports betting. The harmful effects of card betting, if any, cannot be fully evaluated at this time because these operations are still in the developmental stage.

Kemp's view that legalized gambling could foster corruption among athletes should be evaluated in more detail. It is true that sports has been relatively free of gambling-related scandals despite the prevalence of illegal gambling on sporting events. Kemp's argument is based

on the premise that when gambling is illegal, a player who wishes to fix a game will have considerable difficulty in placing a bet against his own team without the bookmaker discovering his intention and taking the game off the line for that week. If betting were legal, Kemp states, the athlete could place the bet himself or have someone else do it for him in order to avoid arousing suspicion. The obvious question is: Would it not be just as easy for a player to have someone else place an illegal bet for him?



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TESTIMONY OF:

- Thruston B. Morton, President, American Horse Council, Inc.
- R. Richards Rolapp, Executive Director, American Horse Council, Inc.
- John Mullenholz, Counsel, American Horse Council, Inc.

MARCH 4, 1975

The American Horse Council (AHC) was established in 1969 to represent the horse industry before the Federal Government in Washington, D.C. The specific impetus in forming the association was an attempt to protect the industry from what the AHC felt were oppressive Federal tax measures that were under congressional consideration in 1969. The purpose of the AHC is "to provide for the mutual advancement and protection of the horse industry and to promote the horse as a standard of excellence in the United States."

The size of the horse industry indicates the degree of the AHC's importance. Annual expenditures in the industry are estimated at \$6 billion and total capital investment is approximately \$7 billion. Within this \$13 billion industry, the racing sector predominates in terms of capital investment, employment, public interest and revenue. The AHC estimates that total governmental revenues from racing and related sources approach \$1 billion annually. The entire horse industry benefits from the success of the racing sector--from breed improvement to expanded veterinary research.

The problems of the horse industry are related to the issue of gambling. Taxation continues to be a major concern of the industry. Present tax provisions hinder the expansion of breeding and racing operations. The tax code denies horseowners the investment tax credit for investments in horses while allowing such credit for investment in other livestock. Consequently, capital outlay is not stimulated in the horse industry; horsefarmers receive unfavorable or discriminatory treatment with regard to business losses. In most businesses a taxpayer is permitted to consolidate his income and losses from diverse business endeavors without penalty. The horsefarmer is often denied capital gain treatment where he has deducted losses against nonfarm income. Horseowners must frequently prove that their business endeavors are genuine. A horseowner who continues to lose money is often required to spend additional sums in legal and accounting fees to prove that he is legitimately engaged in business or he loses the right to deduct losses from his horse operations. Liquidation of horses and farms is often necessitated after the death of the owner because of the significant estate tax liability levied.

The AHC offered the following opinions and recommendations:

1. Discrimination in Federal tax practices against the equine industry is a product of the misconception that horseowners are wealthy persons who are using the business as a tax shelter. AHC thus encourages the deletion of current onerous tax provisions (especially the denial of investment tax credit)

and recommends opposition to any provisions that would further limit the deductibility of losses from a business endeavor. The AHC further contends that an investor should receive the investment tax credit for investments in horses. The AHC also supports Senator Birch Bayh's bill to increase the farm exemption to \$200,000 in Federal estate taxation.

2. The AHC strongly supports the elimination of interstate off-track betting. Such expansion of OTB would drastically decrease track attendance, reduce the number of tracks to a few televised centers, and thus cause track and horseowners to lose significant revenue. AHC contends that:

"Interstate off-track wagering is actually a product of the governmental view that horseracing is primarily a source of revenue and only secondarily a sport and valuable economic asset to the state...(it is) imperative that racing be recognized as the big business it is, and that its operations be placed on a more business-like basis...(Moreover) government must curb its demand for high taxes in order to give private interests in the racing industry a fair share of the relatively thin profit margin. "

3. In response to the Pepper Committee's proposals regarding criminal involvement in the racing industry, the AHC holds that: (a) a Federal racing "czar" should not be instituted, (b) racing should be State-regulated, and (c) only if States are unwilling or unable to enforce racing laws should Federal intervention be considered.

4. The Department of Agriculture should make a more concerted effort to provide the industry with an estimate of the national horse population.

5. The AHC opposes Congressman Sam Steiger's bills regarding horseracing: H.R. 1047, prohibiting the alteration of a race outcome, use of illegal devices to affect the speed of a horse, and falsifying the record of ownership of a horse; and H.R. 1048, the use of taxation as a guise for obtaining information concerning the ownership of racetracks. The AHC favors State rather than Federal control of these matters. The AHC opposes both H.R. 1047 and H.R. 1048 since it is appropriate for these kinds of statutes to be enacted and enforcement by the States. H.R. 1048, in particular, would place the licensing authority with the District Director of Internal Revenue, who is charged with collection of revenue and who has no experience in racing or its regulation. Hence, a critical phase of the sport would be placed in the hands of a stranger to the sport. The AHC also objects to (1) the enormous discretion placed in the District Director to deny or revoke a license and (2) the show cause provision, which gives the District Director a judicial function in determining the correctness of his own decision.

TESTIMONY OF:

- Charles J. Cella, President, Thoroughbred Racing Associations, Inc.
- Devereau Milburn, Counsel, Thoroughbred Racing Associations, Inc.
- Spencer Drayton, Sr., President, Thoroughbred Racing Protective Bureau

MARCH 4, 1975

The Thoroughbred Racing Association (TRA) was established in 1946 to "promote the best interests of thoroughbred racing." The imposition of TRA standards upon member tracks is intended to ensure that the industry and the sport are highly competitive, free of corruption, and entertaining for the spectator. The association includes 55 member tracks that contribute approximately \$12 million annually for security.

The Thoroughbred Racing Protective Bureau (TRPB) was established in 1946 to enforce compliance with TRA standards. The bureau is the investigative adjunct of the TRA and is financed (\$1 million annually) by TRA member tracks. In brief, TRPB has been organized for the purpose of "conducting investigations to seek out and expose to the industry and the general public all crimes and violations of the rules of racing which are deemed injurious to the interests of the public and the thoroughbred industry." The results of these inquiries are given to authorized TRA officials and State racing commissions for either corrective or disciplinary action.

Both the TRA and TRPB are primarily concerned with four specific areas: (1) Personnel, (2) wagering, (3) horse identification, and (4) the use of illegal drugs on horses.

1. In an attempt to divorce the industry from internal criminal involvement, each individual applying for a job or, more importantly, a racing license is fingerprinted and checked for a criminal record. In 1974, TRPB conducted 4,291 such investigations upon the recommendation of TRA, which resulted in the suspension or denial of 632 licenses.

2. TRPB polices member tracks for bookmakers. Between November 1973 and August 1974, 1,661 persons were ejected from TRA tracks for engaging in illicit bookmaking activities.

3. TRPB has additionally developed new methods of horse identification to prevent the running of "ringers" in member tracks.

4. Since its establishment, the bureau has given preferred attention to cases involving the illegal use of drugs either to stimulate or subdue thoroughbred horses. Forty thousand saliva tests have been conducted since 1965 to determine the incidence of illegal druggings at member tracks. An annual average of 64 such tests have proven positive.

In sum, the TRA and TRPB are interdependent organizations established to protect and investigate the thoroughbred racing industry. The TRA sets the standards and the TRPB assures compliance.

The following subjects were brought up during questioning by Commission members:

1. Race fixing. Additional Federal legislation regarding attempts to affect the outcome of a horserace should neither be enacted nor recommended to Congress. The Federal statutes and State laws are adequate to set and enforce current racing standards and therefore should not be expanded.

2. Tax on winnings. The requirement that every individual who wins on wagers with odds of more than 300 to 1 file a 1099 Federal income tax form is not detrimental to the racing industry even though there is evidence that many winners attempt to circumvent this requirement.

3. Broadcasting of race results. Federal prohibition of race result broadcasts has had little effect upon the racing industry.

4. Exotic wagering. The TRA opposes all exotic wagering. The TRPB, on the other hand, believes that exotic wagering is a function of public acceptance and therefore should not be under the jurisdiction of the TRA.

TESTIMONY OF:

- Donald MacFarlane, Chairman, Board of Harness Tracks of America
- Richard O'Hare, Counsel, Harness Tracks of America, Inc.
- John L. Brennan, President, Harness Tracks Security

MARCH 4, 1975

Harness Tracks of America (HTA) is an association of 50 major harness tracks in the United States and Canada. HTA activities include promotion and advancement of the sport, including the preservation of its integrity. The HTA Code of Standards sets forth the organization's major objectives: "Racing must be honest and highly competitive and as a spectacle, must be vitally interesting and entertaining... there are fundamentally two groups to be served, the spectators and contestants."

The HTA and those States in which HTA tracks reside determine and administer the rules under which racing is conducted. It is the opinion of the HTA that State control is rigid, broad, and adequate. The association does not believe that Federal legislation or supervision would add anything "constructive" or be any more effective in controlling local racing matters than the 17 States that are presently involved in the harness industry's regulation.

"The individual State racing commissions are competent and logical sources of jurisdiction over racing in their own areas. They are eminently qualified to determine if their citizens should be permitted to bet on only one horse at a time, or have multiple betting opportunities; they are empowered by pervasive State regulatory statutes to adopt rules and regulations governing the safe and competitive conduct of racing, and they certainly are free and able to set and enforce such requirements as they see fit in this area."

The HTA does not object, however, to legislation that would make a Federal crime of any action or inaction that now is a State crime and is susceptible to Federal jurisdiction. The HTA feels, however, that there are adequate existing State and Federal statutes to handle any crimes arising out of racing.

The HTA is satisfied with the present regulatory system in the harness racing industry. If the Federal Government were to become involved in the regulation of the industry, the association feels that Federal taxation would inevitably follow Federal regulation. In this event, neither the tracks nor the wagering public could absorb a further tax takeout; State revenues, "which have been increasing constantly," would then decline "disastrously," leading to the demise of the industry and the sport.

The HTA regards the policing of racing as the responsibility of the States that license and regulate the sport, and of the racing industry as well. It was for that reason that the HTA originally sponsored the formation of Harness Tracks Security. Most HTA members are involved in that organization. In the case of those that are not, legislation requires their membership in State security organizations. Others rely upon State and local police for track security.

In regard to the issue of off-track betting, the association cites the experience of New York State and the impact OTB has had there: "The impact...has been clear and unmistakable in its adverse effect on on-track attendance and parimutuel handle." The HTA therefore opposes the expansion of OTB to member States. With regard to the issue of exotic wagering, the HTA "is in favor of anything that will increase the handle, because HTA feels that anything the State approves, HTA feels free to use." The association does not believe that exotic wagering "necessarily" increases the possibility of illegal activity in the harness industry.

In summary, it is the opinion of HTA that: (a) There is great need in harness racing, as in any sport on which gambling is conducted, for constant vigilance; (b) the States that offer racing are the proper repositories of power to control, regulate, and administer it; (c) little would be gained by the intervention of the Federal Government into this area--perhaps "much would be lost by such action," and (d) the format of parimutuel betting should be determined by the States that offer it.

TESTIMONY OF:

- Nicholas Jemas, National Managing Director and Secretary, Jockeys' Fund and Guild, Inc.

MARCH 4, 1975

The Jockeys' Fund and Guild was organized in 1940 in response to the abuses of constitutional rights that racing officials, track management, and racing commissions had allegedly perpetrated upon many jockeys. As a consequence of their voluntary membership in the guild, jockeys were confronted with the threat of reprisals from racing officials and track management. Yet, the guild continued to increase its membership significantly.

The Jockeys' Fund and Guild is essentially a nonprofit, social welfare organization with a national membership. However, the guild is not solely concerned with the improvement of the jockey's health, welfare, and legal rights. It also sees itself as a vehicle for protecting and assisting the thoroughbred racing industry by establishing a code of high standards for its membership and the industry in general. The guild has strongly supported rules and regulations for the betterment of the racing industry and its participants--whether public or private.

In this capacity, the guild regards the off-track betting enterprise as a political racket and a patronage gimmick that must be discontinued. It only invites corruption and scandal to the detriment of the industry in both financial and public relations terms. Federal legislation should be enacted to prohibit interstate off-track betting and exotic wagering.

The thoroughbred racing industry is a source of revenue to a great number of communities. Yet the States and communities that benefit largely from this enterprise are taxing the "sport of kings" to death. States must afford the thoroughbred racetracks some relief from taxation if they expect the tracks to remain healthy financially.

The thoroughbred, quarter, and Appaloosa racing and breeding industries are multimillion dollar operations. Yet, each is increasingly confronted with three dangers that are gradually turning racing into a "sick, dying" industry: (1) Excessive State tax systems; (2) competition from State and city off-track betting, which has significantly depleted the industry's revenues through decreased track attendance; and (3) competition between State lotteries and the racing industry for the "gambling dollar."

Federal and/or State legislation may be necessary to protect and assist the thoroughbred racing industry and its participants (i.e., jockeys). The guild can do much to aid in the correction of other

internal problems, but it cannot attempt to do so in the face of excessive and discriminatory taxation and competition.

The following subjects were brought up during questioning by Commission members:

1. Race fixing. It is not presently a Federal offense to tamper with or fix the outcome of a race. The introduction of formal Federal regulation will not help deter such violations.

2. Rights of jockeys. The impetus for the guild's formation was the concern over the denial of "due process and constitutional rights" of jockeys. Although the guild has done much to eradicate these inequities, the present judicial system does not sufficiently guarantee due process. The Administrative Procedures Act discriminates in favor of racing officials and commissions to the continued detriment of the jockeys. However, Federal intervention into the judicial process is not perceived as a viable alternative to the present system.

3. Exotic wagering. The guild is opposed to exotic wagering because it invites corruption and thus calls into question the inherent integrity of the sport. Jockeys should still be allowed to bet in the prescribed manner; such a practice does not necessarily invite corruption although continued regulation is essential.

4. The industry's public image. "The thoroughbred industry's weakness is fear." It fears bad publicity from the public exposure of internal corruption and scandal. It also fears the revocation of franchise should it speak out against excessive taxation. Both fears are economically motivated and hence difficult to eradicate. However, the industry must adopt a policy of full disclosure and must deal with its problems--no matter how distasteful--quickly, consistently, and fairly if public and legislative confidence is to be restored and heightened.

TESTIMONY OF:

- Jack Defee, President, Horseman's Benevolent and Protective Association
- R. Anthony Chamblin, Executive Director, Horseman's Benevolent and Protective Association

MARCH 4, 1975

The Horseman's Benevolent and Protective Association (HBPA) was organized in 1940 to aid and protect the general welfare of the racing industry and the interests of horsemen and backstretch personnel. Today, the HBPA represents more than 35,000 members at every major and most minor tracks in the United States and Canada.

The most pressing problem in thoroughbred racing is the plight of the owners who supply the horses for the races from which the States derive tax revenues. The cost of keeping a horse in training is much greater than its average earnings from purses. Racing is a multibillion dollar industry patronized by millions, providing employment for thousands, raising millions of dollars in tax revenue; and it is totally self-supporting. It is deserving of much greater consideration from the State and Federal Governments than it is receiving. In February 1975, the New York Division of the HBPA, in connection with the Thoroughbred Owners and Breeders Association, released a white paper that outlined an eight-point program designed to help solve the racing industry's problems.

The HBPA supports better security measures, stronger action against would-be race fixers, and full disclosure by owners of tracks and horses. Federal legislation would be unnecessary if the States took appropriate action. The industry fears that Federal regulation would be accompanied by Federal taxation. State racing commissions are best suited to resolve the conflicts in racing dates, and have already done so in New England. The HBPA believes that the legalization of sports betting could well destroy parimutuel betting. The HBPA would support Federal OTB legislation if the present inequities at the State level continue.

The HBPA supports intrastate OTB, provided that the tracks and horsemen receive the same share of the handle from OTB as they do from on-track wagering. Properly conducted, OTB could give racing a needed economic boost; improperly conducted, as in New York and Connecticut, it could severely damage the economic welfare of racing.

The HBPA disagrees with many of the findings of the Select Committee on Organized Crime, which received much of its testimony from people of dubious character and veracity. The HBPA unsuccessfully attempted at the time to unite the leaders of the thoroughbred and standardbred industries to refute various allegations. The overall tone of the hearing and resultant publicity was exaggerated and sensationalized.

TESTIMONY OF:

- Jerome L. Hauck, President, Harness Horseman's International
- Donald R. Price, Executive Secretary, Harness Horseman's International

MARCH 4, 1975

Harness Horseman's International (HHI) was established in 1964 to satisfy the need for a parent organization to act as a spokesman for all local associations on a national and international level. HHI is composed of 17 local associations in the United States and two in Canada. Until 1964, harness horsemen were unorganized and had no voice in the industry. It is the intent of HHI, if and when all associations can afford it, to provide umbrella insurance coverage to all those employed in the harness racing industry.

Harness racing has received poor publicity from the media, and unqualified and false testimony and accusations have tended to question unfairly the integrity of the sport. The following resolution was adopted in August 1973:

"Harness Horsemen International and its member organizations, urge that the various State and Provincial Commissions charged with the regulation and supervision of racing, expand their activities in providing security measures and their enforcement, in the conduct of the sport. They should make greater use of the resources of State investigative agencies, and their own disciplinary powers, in maintaining the integrity of horse racing.

"We believe that this function should be preempted by the State and Provincial Commissions which are responsible for the propriety of their actions and for acting in accordance with due process of law. They should exclude private investigative organizations employed by racetracks, and answerable only to them, whose methods of operation, arbitrary judgments, and failure to recognize the constitutional standards of fairness and impartiality required by a State agency, make them unfit to wield the power over horsemen which has been given to them."

Costs of participation in racing have risen out of proportion to the size of purses. The State's share of the handle is too high. The State must return some portion of its share to the industry, which provides it with significant tax revenues.

HHI is opposed to the interstate transmission of wagering information and supports Federal legislation that would prohibit the use of this information by interstate OTB operations. The Connecticut

Mini-theatre concept, which includes the interstate transmission of pictures and information, would threaten not only State revenues, but the existence of the harness racing industry.

Other HHI recommendations include:

1. Standardized prerace testing;
2. Universal licenses;
3. Federal penalties for race fixing whether it be by drugs, mechanical devices, bribes, or other methods;
4. Central data banks on racing violations; and
5. Enactment of conflict of interest statutes including one prohibiting track owners from racing at their own tracks.

TESTIMONY OF:

- John A. Bell, III, Trustee, Thoroughbred Owners and Breeders Association
- Kent Hollingsworth, Editor, The Blood-Horse Magazine
- Helen C. Tweedy

MARCH 4, 1975

The Thoroughbred Owners and Breeders Association (TOBA) was established in 1961 to promote, protect, and improve thoroughbred racing and breeding. The primary source of revenue for owners and breeders of thoroughbreds is purse money, which is derived from a percentage of wagering through parimutuels.

TOBA has these recommendations concerning its industry:

1. Each State should reapportion existing percentages of takeout distribution so that a greater percentage of the takeout would accrue to the purse and the track, and a lesser percentage would accrue to the States in tax revenues.
2. At the existing percentage of takeout allocation for the purse, horseowners cannot meet the rising costs of keeping a horse in training and track operators cannot maintain, improve, or expand plant facilities. Thus, the current high rate of taxation should be reduced lest horseracing and breeding industries be severely affected and ultimately destroyed.
3. The regulation and control of the horseracing industry should be left to the individual States, because (a) the racing industry cannot afford another tax increase, which would necessarily lower purses; and (b) horseracing does not easily lend itself to national regulation since its rules must be adapted to local conditions, which vary significantly from State to State and from metropolitan track to country track.
4. Existing State laws and regulations are adequate to maintain the integrity of horseracing and should not be supplemented by Federal laws that would improve neither the fact nor the appearance of honesty in racing. The present reciprocity between State racing commissions with regard to license rulings effectively curtails interstate involvements of undesirables in racing without the need for Federal intervention.
5. Exotic wagering poses a serious threat to the integrity of the racing industry and should be prohibited.
6. Existing income tax regulations, particularly those which require an individual in the activity of racing and breeding thoroughbreds

to show a profit within "too short" a period of time to permit the development of a significant breeding operation, should be reconsidered. Additionally, gambling winnings should not be subject to income taxation.

7. Federal law should prohibit bettors in one State from wagering on horses raced in another State.

The following subjects were brought up during questioning by Commission members:

1. The Emprise scandal. The racetrack does not have the capital to make many desired improvements and therefore must solicit other than desirable sources of revenue. Through heavy taxation, the States are inadvertently contributing to the likelihood of dishonesty by preventing the racing associations from securing capital from reputable sources and by preventing horsemen from earning enough money through the efforts of their horses to support themselves. However, when tracks are capable of offering adequate purses, they can provide better security, better screening of personnel, and so on. They can upgrade their entire operation in a legitimate manner. In brief, the adverse cycle starts when excessive taxation is introduced and is terminated when more equitable taxation is realized.

2. Public disclosure of prerace training condition. Expert opinion varies so widely on the relative training condition of horses as to be unreliable, and in the absence of objective standards for the determination of training condition before a race, a single estimate based on subjective standards could mislead the betting public.

3. Reduction of the takeout. The total takeout from parimutuel wagering on horseraces in the United States during 1973 amounted to 17.6 percent of the total turnover. The association believes that if the rate of takeout were reduced to 10 percent of total turnover, the resulting increase in total turnover ultimately could provide a greater sum of money to be returned to racing, although taken out at a lower percentage rate. The association strongly urges reapportionment of the takeout: 4.0 percent of total turnover (down from the present 4.5 percent) should be allocated to purses; 5.0 percent of total turnover (down from the present 5.7 percent) should be retained by the tracks; and 1.0 percent of total turnover (down from the present 7.4 percent) should go to the States as tax revenue. If this were done, there would be a reasonable expectancy of revenues sufficient to permit horse owners and track operators to meet currently rising costs. Increased State tax revenues could be expected to be generated by a healthy, growing racing industry.

Parimutuel statistics for 1973 show that daily average racetrack attendance is down and betting per capita is up; this reflects a loss in casual racegoers and small bettors, emphasizing the large contribution to turnover by the remaining, more regular racegoers. Raising the minimum wager from \$2 would tend to discourage track attendance and contribution to parimutuel turnover from infrequent racegoers, and would not foreseeably alter habits of regular bettors who already use available higher denomination betting windows.

TESTIMONY OF:

- John V. Newman, President, National Association of State Racing Commissioners
- Warren D. Schweder, Executive Vice President, National Association of State Racing Commissioners

MARCH 5, 1975

The National Association of State Racing Commissioners (NASRC) was founded in 1934 to study the problems of State supervision of racing, to encourage the adoption by State boards and commissions of uniform procedures and reciprocity in enforcing rules, and to achieve and maintain public confidence in racing. NASRC membership now includes 45 commissions representing 30 States, the provinces of Canada, Mexico, Puerto Rico, and the Bahamas.

Federal involvement in the regulation of racing is unnecessary and poses a serious infringement on a State's prerogative. It is the position of the NASRC that each State, having made the decision for pari-mutuel racing and having provided for reasonable rules and regulations, should be free to administer racing according to its own tradition and public custom.

In 1973, parimutuel horseracing was conducted in 29 States. The public wagered nearly \$7 billion, \$5.8 billion of which was redistributed to the bettors, leaving \$1.2 billion to be shared by the States, race-tracks, and horsemen. The State's cumulative share of the betting in 1973 was \$519 million, roughly half of the \$1.2 billion total. From data provided by more than 50 percent of all racing associations, NASRC has predicted that the total annual payroll of 229 racing associations in 1973 was approximately \$190 million. From the same data source it is estimated that the tracks in 1973 paid \$40 million in local property taxes, \$9 million in sales taxes, \$9 million in State income taxes, and \$60 million in Federal income taxes.

Acting on behalf of its member jurisdictions, NASRC has organized the National Association of State Racing Information Service, a telecommunication system linking terminals in each racing State with a computer located near the NASRC headquarters in Lexington, Ky. Since January 1, 1974, the association has stored in this computer all official rulings made against any participant in thoroughbred, harness, quarter, or greyhound racing. The racing information service will also provide the sport with its first accurate record of the number of persons involved in racing at the racetrack. The data should have underlying significance to any governmental body dealing with such racing-related matters as medication, horse identification, hidden ownership, and exotic or gimmick betting (multiple wagering).

The following subjects were brought up during questioning by Commission members:

1. Exotic wagering. There is greater potential for foul play with exotic wagering because of the long odds and the number of horses involved.

2. Illegal wagering. Most illegal bets through bookies are placed by people who are unable to go to the track. At the time OTB was started, it was thought that the proliferation of legal betting parlors would hurt the bookies' business. But there is evidence that this has not occurred. OTB has encouraged people to wager with the bookies because of the high cost of placing a legal bet.

3. Interstate betting. Interstate OTB should not be legal because it causes States to infringe upon one another's property rights.

4. Takeout. States should consider reducing the total takeout, and State legislatures should reduce the State's percentage of the takeout. The funds thus relinquished by the States should be used to improve the purse structure, which would have a beneficial rippling effect throughout the entire industry.

TESTIMONY OF:

- Ernest B. Morris, Director and Member, U.S. Trotting Association
- Theodore J. Zornow, President, U.S. Trotting Association

MARCH 5, 1975

In the late 1930's conditions in the harness racing industry had become chaotic. Government discipline and organization of the sport were ineffective, and the identification and registration of horses were incomplete. The three existing harness racing associations operated independently of one another. Their rules were not uniform. Horsemen could skip from one territory to another to circumvent penalties. Registration records were not being properly maintained. Due to the lack of an effective central organization, harness racing slipped into the shadows of suspicion and disrepute. The U.S. Trotting Association (USTA) was founded in 1938 to remedy these and many other deficiencies in the harness racing industry.

The USTA tries to use every modern device and system to preserve and maintain the sport's integrity. It has provided the funds and impetus for the original research of prerace testing and instituted and conducted an identification system based on lip tattoo, which has virtually eliminated the racing of horses under false or mistaken identity. These activities and many others are conducted without the employment of a single government bureaucrat or the expenditure of a single taxpayer's dollar.

In recent years, there has been an increasing tendency by State and Federal prosecutors, and sometimes by members of legislative committees, to victimize horseracing for newspaper headlines and sensational television shows. The issuance of subpoenas is rarely followed by indictments and almost never by convictions. But the damage to the reputation of racing lingers long after the sensational headlines have stopped.

There is no need to augment the present Federal statutes, except in one case: The individual States and racetracks are powerless to prevent the piracy of their product by OTB promoters--both legal and illegal--in other States. USTA believes that the electronic dissemination of harness racing from racetracks to theaters or parlors remote from the tracks is destructive of the best interests of the sport as a whole. The financial injury to racing has already been clearly demonstrated. It is just as clear that preserving the integrity of the sport becomes impossible if the networks now in contemplation become a reality. The U.S. Constitution vests in the Congress the power to put an end to this interstate injustice.

The following subjects were brought up during questioning by Commission members:

1. Economics of harness racing. Harness racing, like other forms of racing, is in trouble economically, not because of regulation or lack of integrity in the sport, but because of overtaxation by the States.
2. OTB in New York. In 1971, OTB in New York brought disaster to metropolitan racing. A serious decline in track attendance occurred. The OTB "menace" should be abolished, but Federal legislation is not the means to accomplish this end.
3. Bookmaking on harness racing. Harness racing has never been the subject of heavy illegal betting.

TESTIMONY OF:

- Nicholas F. Brady, President, Jockey Club
- Calvin S. Rainey, Executive Secretary, Jockey Club

MARCH 5, 1975

The Jockey Club was formed in 1894 for the purpose of organizing and regulating thoroughbred racing. It is a nonprofit organization of the State of New York. Its numerous services to the racing industry include:

- Starting gate, originally suggested and strongly supported by the Jockey Club.
- Photo finish camera, developed through the efforts and funds of the Club.
- Testing for drugs, initiated by the Club.
- System of identification using the natural markings of a horse to prevent deception and frauds, developed by the Club.
- Statistical Bureau in Kentucky, a storehouse of information on thoroughbred racing and breeding, maintained by the Club.
- American Stud Book, maintained continuously by the Club since its inception as a meticulous record of all American thoroughbreds.

The latest attempt to improve the racing industry by the Jockey Club is the Pugh-Roberts Report, a study conducted for the purpose of bringing together in one model all of the factors that affect the thoroughbred racing industry. Although not yet completed, the study verifies certain specific feelings about the industry, such as:

1. In attempts to increase revenues, the number of races run is being expanded to the point of diminishing returns. Between 1960 and 1973, races run increased 56 percent to more than 62,000 per year. This has caused increased schedule overlaps and added competition among tracks for both fans and horses.
2. Average daily attendance has fallen steadily for the past 7 years.
3. Average daily handle has remained stagnant in a period of rising costs.
4. The quality of horses in training and in breeding has declined.

While the industry has some problems, it is fundamentally sound. During the late 1960's and early 1970's, the industry grew at a rate that exceeded a number of constraining limits imposed by horses, purses, and market size. This cannot and will not be sustained. The next years are expected to be a period of consolidation, which should leave the industry stronger.

TESTIMONY OF:

• Don Jones, Executive Secretary, American Quarter Horse Association
MARCH 5, 1975

The American Quarter Horse Association (AQHA) was formed in 1940 to collect, record, and preserve the pedigrees of American quarter horses, publish a Stud Book, and promote matters such as may pertain to the history, breeding, exhibition, publicity, and sale of horses and to racing. Today the AQHA registry contains more than one million horses and is the largest equine registry in the United States.

The Racing Division of the AQHA was created in 1949 to approve and maintain records of the sport. In 1952, four western States (California, Arizona, New Mexico, and Nevada) were conducting quarter horse racing. Presently 14 States offer parimutuel wagering on quarter horse racing, but 29 States allow thoroughbred and/or harness racing. The laws in almost all the other 15 States strictly prohibit quarter horse racing. It would appear that these laws are discriminatory. If a track wishes to conduct quarter horse racing in a parimutuel State, it should not be disallowed simply because it was not included in the original parimutuel legislation. The States should amend their laws to permit quarter horse racing.

Legalized parimutuel betting built an industry out of a hobby by providing the purse money for the horsemen and tax revenue for the State. Although the tax dollars derived from racing may be important to a State, the thousands of people and horses that make up the industry are of far greater economic value than the tax derived by the State from racing.

Federal and State laws concerning legalized gambling are far superior in regard to enforcement and effectiveness than those that prohibit gambling of any kind. The effectiveness or ineffectiveness of State rules and regulations depends on the State Racing Commission. Most of a racing commission's positions are filled by political appointment, and in many cases appointees are not knowledgeable about the racing industry. A method should be developed to ensure that the people appointed to racing commissions are knowledgeable, competent, and honest. Only then can the commissions operate effectively and help the racing industry.

There should be full disclosure of track ownership, providing the Federal Government requires full disclosure of ownership of all other businesses in the United States. However, the integrity of racing is affected far more by the stewards and racing commissions than by the owners of the track.

TESTIMONY OF:

• Robert P. Strub, President, Santa Consolidated, Inc.

MARCH 5, 1975

Santa Anita Race Track was founded in 1934 by the Los Angeles Turf Club, directed by Charles H. Strub. That year, racing generated \$259,000 for the State; in 1973, it produced \$75.27 million.

Wagering and horseracing are complementary. The tax on wagering is an incentive for the State; the commission concerned with wagering is the incentive for the Thoroughbred Racing Association and owners and breeders to build and flourish under the supervision of State law and racing commissions. This relationship is a sensitive partnership that is being upset by those States demanding a larger share of the betting dollar. Under these circumstances, the tracks could go out of business and the horsemen would leave the State. The State would be the big loser.

In California, the State receives 7.45 percent of the wagering pool; 4.54 percent goes into the purses; and 4.56 percent is retained by the tracks. Santa Anita is one of the five major league tracks in America and operates in the black, but feels its profit is a narrow return on its investment. A reduction in the State takeout would increase the handle and generate more money for the owners and the tracks. Santa Anita offers the daily double and the exacta as exotic forms of wagering. Both require the selection of two horses either in one or two races. When carried to extremes, where four to six horses have to be properly selected in the correct finishing positions, horseracing loses an important ingredient--the challenge and excitement of picking a winner--and is reduced to a lottery in which chance is emphasized and the competitive sport activity with the skill of selecting a horse is deemphasized.

The OTB experiment in New York was ill-conceived and harmful to racing there. Attendance at racetracks in the metropolitan area declined substantially. Forty percent of Santa Anita's revenue is derived from parking, admissions, programs, and concessions. It could not afford to lose any part of those revenue sources or its income from on-track wagering. Although Santa Anita would be one of the few tracks that would benefit from interstate OTB, it would not cooperate with any out-of-State OTB system.

The Select Committee on Organized Crime in 1972 damaged the image of racing. Thoroughbred racing has taken the responsibility upon itself through the Thoroughbred Racing Protective Bureau to police its own activities within the Thoroughbred Racing Association membership.

Full public disclosure should be made of all information concerning ownership interest in tracks, concessions, and lending institutions. Convicted felons are considered to be undesirable at Santa Anita and are barred from holding stock in, lending money to, or controlling concessions at the track.

TESTIMONY OF:

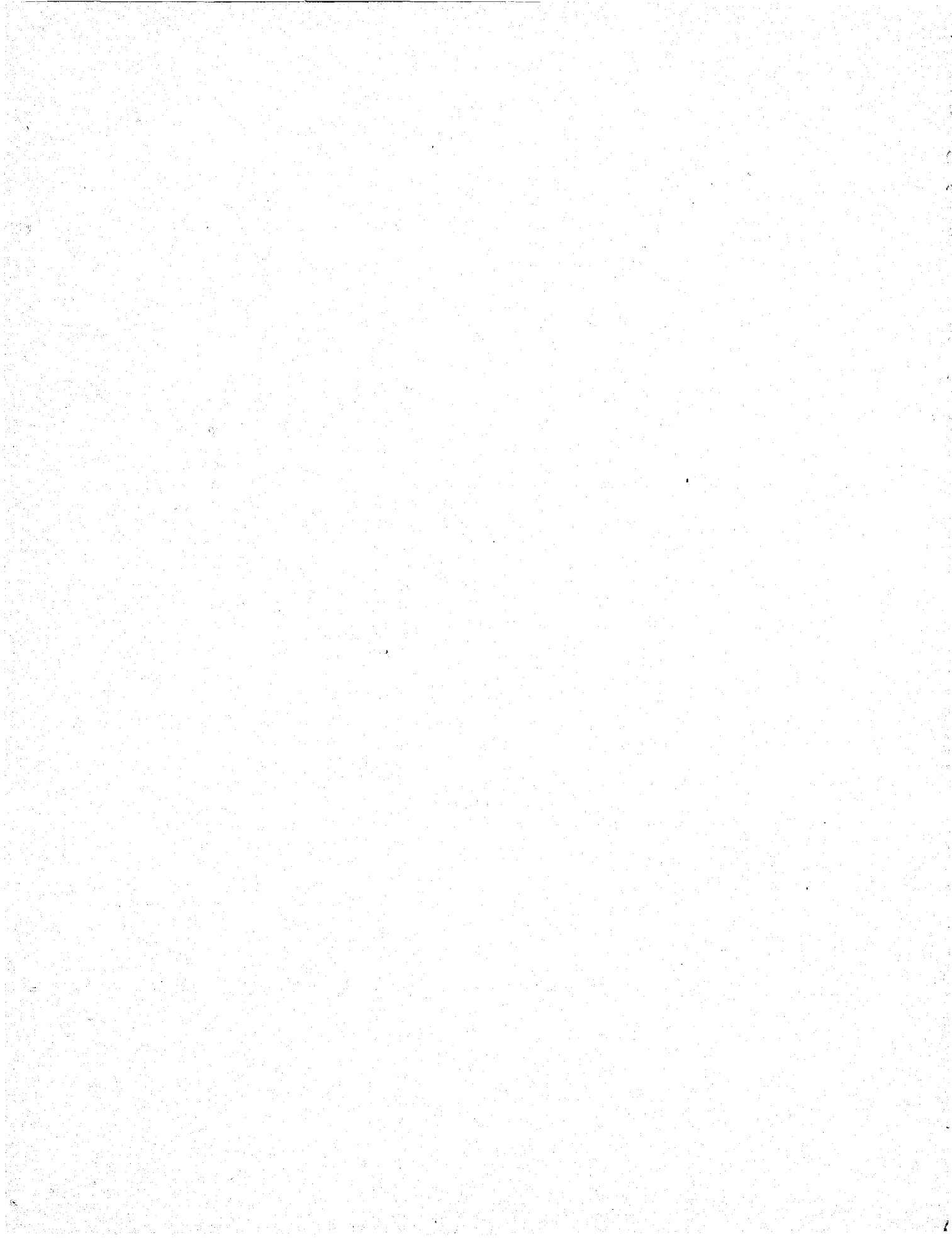
• John F. Loome, President, Washington-Arlington Park
MARCH 5, 1975

Arlington Park began operation in 1927 and is one of the five major league racetracks in the U.S. It attracts the world's finest racehorses in competition for the largest purses offered in the Midwest. Washington Park opened in 1926 and for 36 years offered some of the country's most prestigious summer thoroughbred racing. It was the home of the American Derby. In 1962, it was converted into an all-weather track and pioneered winter harness racing in Chicago in February 1963. Arlington and Washington Parks are now wholly owned subsidiaries of Madison Square Garden Corporation.

Racing is an industry. It is not a gambling business that can be easily taxed whenever there is an additional demand for tax revenues. The States maintain an economic, social, and administrative interest in racing, and should exercise some degree of control over it. But those appointed to implement that control often are unqualified and are replaced by a change in administration when they have gained experience. It is advisable to make uniform rules and regulations to control the industry, and to establish more clearly the responsibility of its participants. Existing Federal and State criminal laws are satisfactory and sufficiently cover the areas of malfeasance that constitute a threat to the integrity of racing. It is in the enforcement of those laws that problems arise. Those in the industry are best equipped to maintain its integrity. Effective enforcement of disclosure rules and vigorous investigations by the industry, coupled with a lifetime ban from racing for failure to disclose all parties and interests, provide as much protection as is reasonably possible.

The practice of granting concession companies large interests in racetracks may or may not be desirable. But whatever the undesirable effects of concession influence on racetracks may be, they can only be resolved by providing a tax basis that affords a return on investments or provides an alternate means of obtaining necessary capital to operate tracks in the face of rising operational costs and increasing taxation. The issuance of long-term racing dates with the ability to do some relevant financial planning could be a partial answer to the concession loan problem as well.

The long-term effects of OTB are difficult to assess. If the track received its fair share from OTB and it diverted illegal bets into legal channels, the net revenue effect might cover the loss of on-track handle and attendance. Using the expertise available in the industry by having the tracks operate OTB is an idea worthy of consideration.



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TESTIMONY OF:

• Thomas P. O'Neill, Lieutenant Governor, Commonwealth of
Massachusetts

APRIL 9, 1975

Two arguments currently support the legalization of gambling. First, it would effectively assist law enforcement in reducing organized crime. Second, it would raise substantial revenue for the State. Like most States, Massachusetts faces a substantial deficit in tax revenues, perhaps as much as \$400 million this fiscal year and \$1 billion within 18 months. In the midst of a major recession, taxpayers are hostile to any increase in taxes while the government is receptive to any new source of nontax derived revenue.

Thus far, the State's experience with legal gambling has been with parimutuel betting and lotteries. In 1973, the racing industry generated \$35 million in revenue at a cost of \$300,000 to the State. Last year the Massachusetts State lottery netted more than \$38 million for the local governments.

Whether the State enters the gambling business directly or simply licenses and regulates a free enterprise form of gambling, legal wagering must be structured so that it can effectively compete with organized crime. Illegal betting will continue to offer conveniences (anonymity from the IRS and easy credit) with which legitimate gambling will find it difficult to compete. Legalized gambling may prove more successful at competing with itself than with illegal gambling; for example, New York's OTB seems to have depressed the regular racing industry more than bookmaking.

OTB is still being seriously considered by the State. Perhaps by compensating track owners for any lost revenues, an OTB system can be made to function fairly. The experiences of New York and Nevada with OTB can supply useful information from which to work.

The most convincing argument for legalization would be the elimination of the current hypocrisy that prohibits some forms of gambling and encourages others. It is not clear that legalized gambling would eradicate police corruption, cripple organized crime, or relieve States of their deficits. More substantial information must be obtained before any changes in the State gambling policy are made.

Topics covered during questioning by Commission members included the following:

1. Voter approval of gambling. Massachusetts voters probably would favor legalized gambling and would not view it as a form of taxation.

2. Tax increase. The current administration in Massachusetts opposes tax increases as a means of raising revenue. The State is attempting to cut down its expenditures rather than find a new source of revenue.

3. Lottery vs. illegal numbers. The Massachusetts lottery has succeeded in depriving the illegal numbers operation of some of its revenue.

TESTIMONY OF:

• Robert Q. Crane, Massachusetts State Treasurer
APRIL 9, 1975

Legalized gambling, operated both publicly and privately, is a major industry which creates thousands of jobs and provides badly needed revenue to the State. Last year, legalized gambling provided more than \$73 million for the State. Not only would the citizens be equally receptive to new forms of gambling, but new forms of gambling would contribute approximately \$50 million in additional revenue.

Last year the State was provided with \$33,669,546 in revenue from thoroughbred, harness, and dog racing. The State lottery contributed \$38,199,166. In addition, the tax on bingo provided the State with \$1,529,577, and the tax on raffles and bazaars yielded \$264,744, for a total of \$73,690,034.

Projection of anticipated future revenue indicates that there will be a significant overall increase derived from these forms of gambling. The lottery is a particularly promising source of additional funds. In 1976, the lottery will offer a number selection game in direct competition with the illegal numbers racket. When this game is fully implemented in 1977, it is expected to produce between \$30 million and \$40 million a year in new revenue.

The legislature is currently studying other possible forms of legalized gambling. An accounting firm concluded that after 5 years of operation, OTB would produce about \$250 million, yielding a gross revenue to the State of nearly \$49 million. It was estimated that Massachusetts would realize new revenue of approximately \$8.5 million after expenses. Sports pool betting, if implemented, would yield about \$10 million a year for the State. Thus, the currently planned number selection game, off-track betting, and sports pool betting could add perhaps \$58 million in new, needed revenue.

Off-track betting and sports pool betting could be developed relatively quickly and at a relatively low cost. A single computer system could handle all forms of betting discussed as well as all existing lottery games, thus achieving efficiency and economy unknown to any other wagering system in the world. In Massachusetts, approximately half of the revenue derived from legalized gambling is for the State government and half is distributed to the cities of the Commonwealth.

To replace the amount of revenue currently derived from gambling, if operation were to cease, would require a 4.6 percent increase in receipts from sales tax plus a 2.8 percent increase in receipts from the State income tax. Both of these taxes would bear most heavily on lower and middle income citizens. Revenues from gambling, in contrast,

are voluntary and are not regressive, as studies have shown that relatively few poor people gamble. Clearly, gambling revenue is a significant contributor in financing the State government and its absence would require significant increases in tax burdens.

Topics covered during questioning by Commission members included the following:

1. New numbers game. Massachusetts will institute a new numbers game early in 1976. It will be played on a daily basis and will be able to offer better odds than the lottery because of the volume of business it will generate. On a percentage basis, the State will receive less than it receives from the lottery, but on a total volume basis it will receive more. The daily numbers game also will be more competitive with the illegal numbers operation than the lottery is. In the future, the State or the Federal Government, or anyone offering legal gambling, will be able to compete in almost every way with the illegal games--by offering credit and prompt payment to winners, for example.

2. The average gambler. If the average person who gambles illegally knew where the proceeds were going, he would prefer to bet legally. The people need to be informed through newspapers, radio, and television of the importance of legal gambling proceeds to the State and, if they gamble legally, that they will be helping to combat organized crime.

3. Gambling taxation. The 2-percent excise tax imposed on commercial gambling operations should be eliminated, but Federal and State income tax on gambling winnings should be retained.

4. Leisure dollars. The money that a person might use to take vacations, go skiing, or dine in a restaurant is the money being used by Massachusetts citizens to gamble.

5. Dangers of legalized gambling. The greatest danger of widespread legalized gambling is that it may make it too easy for people to gamble who are either too young or too poor.

TESTIMONY OF:

- Gerald E. McDowell, Chief Attorney, Department of Justice, New England Organized Crime Strike Force

APRIL 9, 1975

Legislation passed by Congress directed at illegal gambling gives the Federal Strike Force its most powerful weapon in its prosecution of those involved in organized crime.

Five organized crime families operate throughout New England and the most pervasive illegal activity is gambling. The men who control gambling influence, control, and finance all other rackets in the region since gambling produces more revenue than any other form of A certain segment of society views gambling as a harmless pastime that injures no one and brings amusement to the public. The public does not realize that the friendly sports bookie is a tool of the syndicate. Gambling is never a victimless crime when the bettor lacks the money to pay his gambling debts.

The most successful approach to weakening organized crime is the intelligent enforcement of the Federal laws against gambling. Statutes such as 18 U.S.C. 1952, prohibiting the use of the facilities of interstate commerce to further illegal gambling operations, and 18 U.S.C. 1955, prohibiting certain illegal gambling operations of a certain size, were intended by Congress to be used against the gambling operations of organized crime syndicates.

The Strike Force's goal has been to prosecute, incarcerate, and tax the most powerful racketeers and their associates. The IRS works with the Strike Force in the enforcement of income tax laws against those who evade taxes on gambling profits. It is known that many gambling operations are run directly by major organized crime figures, pay tribute to the syndicate for being allowed to operate, and have corrupted local law enforcement officials in order to stay in business. As long as the mob controls gambling or a significant portion thereof, the best way to prosecute the leadership of the mob is through the enforcement of the Federal gambling laws. The genius of organized crime is the efficient businesslike method by which its activities are coordinated.

The use of court-authorized electronic surveillance of bookmakers' telephone conversations resulted in many successful investigations. This technique is essential if law enforcement is to prosecute effectively the leaders of organized crime's gambling operations. A number of indictments were dismissed because the Government's evidence was obtained by electronic surveillance that had not been properly authorized by the U.S. Attorney General pursuant to the Supreme Court's opinion in United States v. Giordano, 416 U.S. 505 (1974). Although the Strike Force's prosecutive program has been slowed by the effects

of the Giordano decision, the current Federal gambling statutes still enable the Strike Force to investigate the syndicate leadership effectively. The judiciary must recognize the impact of jail sentences for convicted gamblers as a means of reducing organized crime's control of gambling. Sentencing of gambling offenders has been a highly individualized matter: The average jail sentence in Massachusetts ranges from 6 months to 5 years, while in Connecticut the average term is 11.3 months. A continued practice of merely fining and suspending the sentences of convicted bookies is ineffective because a bookie considers a fine a business cost rather than a deterrent.

The legalization of gambling would not have any serious effect on illegal gambling activities because the State cannot effectively compete with the illegal operation; e.g., convenient phone service, extension of credit, tax-free profits, and better odds. It is also a fallacy to believe that legalization would eliminate potential political or police corruption. Professional criminals and bookmakers will not reform merely because one aspect of the industry is legalized. The legitimate establishment of banking and financing companies has not eliminated loansharking. Legalization might cause the crime rate to increase when gamblers lose wagers and, faced with debts, are forced to rely on criminal sources to produce the funds. Honest and vigorous execution of present legislative policy against gambling is the most rational policy for our society.

Topics covered during questioning by Commission members included the following:

1. War on organized crime. Law enforcement is winning the war on organized crime due to the efforts of the Strike Force plus the efforts of State and local and other Federal agencies. The goal of these efforts is to incarcerate as many organized crime figures as possible and keep them in prison as long as possible. This substantially weakens their organizations.

2. Control of gambling by organized crime. Large and profitable illegal gambling operations in New England are controlled either directly or indirectly by organized crime.

3. Elimination of illegal gambling. Elimination of illegal gambling would be an unrealistic goal for the Federal Government to adopt. Enforcement of antigambling statutes is primarily the responsibility of local police and the State police; the Federal Government has only a secondary role.

4. Other activities of organized crime. If gambling were legalized and were able to compete effectively with the illegal games, it

might drive some organized criminal groups from the gambling business. However, the criminal organization would still exist and would go into some other business. New England organized crime groups are not significantly involved in the narcotics business at present, but they might move into this area if deprived of their illegal gambling revenues.

5. Amending 18 U.S.C. 1955 (pertaining to intrastate gambling operations). This statute should not be amended to apply only to organized crime groups engaged in large gambling operations. It would be impossible to prove in court that certain individuals were members of organized crime groups unless a member of the group testified to this effect. The Strike Force in New England is not interested in prosecuting small-scale ("Mom and Pop") gambling operations, but only large operations run by organized crime.

6. Percentage of Strike Force gambling cases. The New England Strike Force devotes approximately 33 percent to 45 percent of its effort to gambling-related cases.

7. Dangers of legalized gambling. Legalized gambling has the potential of introducing the citizenry to the ways of degenerate gambling.

8. Wiretapping. Wiretapping is an essential tool in gambling investigations. State and local law enforcement agencies that lack wiretapping authority cannot conduct truly effective gambling investigations.

9. High- and low-echelon gamblers. When high-ranking members of a gambling organization are incarcerated, street-level operators become much more vulnerable to local police action. Lacking the protection provided by the organization, they easily flounder.

10. Official corruption. The tactic used by the Justice Department to combat official corruption is to prosecute illegal gambling figures and hope they will get such heavy sentences that they will testify against corrupt police and politicians in order to get a reduced sentence or favorable treatment from the parole board.

TESTIMONY OF:

• Arthur A. Montouri, Special Agent in Charge, Boston District
Office, Bureau of Alcohol, Tobacco and Firearms

APRIL 9, 1975

The Bureau of Alcohol, Tobacco and Firearms is responsible for civil and criminal enforcement of Chapter 35 of the Internal Revenue Code, together with the new amendments commonly referred to as the "Wagering Tax Law." The bureau has been gathering intelligence in the wagering field and conducting schools throughout the country to prepare agents in the administration and enforcement of this law.

The amendment to the wagering tax laws, known as Public Law 93-499, became effective in December 1974. It contains two provisions: The first requires commercial gamblers to obtain annually a special wagering tax stamp costing \$500 (under the old legislation, the stamp cost \$50) and to pay a wagering excise tax of 2 percent (the previous excise tax was 10 percent). The second provision prohibits the Federal Government from releasing any information revealing the names of those who pay the tax unless it is to be used in the administration or enforcement of Internal Revenue Service statutes. This provision was influenced by two Supreme Court decisions (Marchetti v. U.S., 1968; Grosso v. U.S., 1968) which held that allowing outside inspection of gambling tax records violated the 5th amendment protection against self-incrimination.

As of December 1, 1974, all commercial gamblers were to be in compliance with this amended law. Penalties range from civil sanctions for nonwillful violations to felony convictions for those who willfully attempt to evade or defraud the United States of the tax. Failure to register as a commercial gambler, to file a wagering tax return, or to pay the tax, in addition to making false statements concerning the tax will result in fines from \$50 to \$10,000 and/or imprisonment from 1 to 5 years.

Wagering activities exempted by the law are:

1. Casino betting where winners are paid on the spot.
2. Parimutuel betting licensed under State law.
3. Coin-operated devices where an occupational tax is imposed by the Internal Revenue Code.
4. Certain State-conducted lotteries.

5. Games of chance at carnivals.

6. Nonprofit wagering; e.g., church-sponsored bingo.

It has been estimated that the new law could produce \$7 million in tax revenues through the remainder of fiscal year 1975, \$20 million in fiscal year 1976, and \$100 million or more annually by 1980.

The \$50 tax stamps remain valid through June 30, 1975, after which the \$500 stamp is required. Commercial gamblers will not be penalized for not having previously complied with the 1951 wagering tax requirement, but they must now comply with the new law. An applicant will pay a prorated fee covering just the period from the date he complies with the law through June 30, 1975.

Although it is difficult for the bureau to determine the effectiveness of Federal enforcement in the gambling field, it believes that this new law gives the Government a powerful weapon to combat organized crime.

TESTIMONY OF:

- James O. Newpher, Special Agent in Charge, Federal Bureau of Investigation, Boston Office
- James F. Scanlan, Jr., Special Agent, Federal Bureau of Investigation, Boston Office
- Dennis M. Condon, Special Agent, Federal Bureau of Investigation, Boston Office

APRIL 9, 1975

All gambling is not evil per se. Gambling is as old as history itself and very much a part of our society. The FBI opposed illegal gambling because it is under the control of organized crime. Nationally and locally, gambling is the major source of income for organized crime.

Two groups in the Boston area fall within the definition of organized crime. One is described in the Congressional Record as "the syndicate," "the organization," or "the office." The other is a major independent group. Each group tolerates the existence of the other and respects the other's jurisdictional and territorial claims. Their relationship can be described as an uneasy peace. The first group, the organization, is part of a national syndicate. The independent group appears to be gaining strength, and some people believe it may now be as strong as the organization.

The primary forms of illegal gambling in the Boston area are numbers and sports and horse betting, with sports betting accounting for the largest dollar volume. Illegal gambling is widespread, well entrenched, and exists in every area. Bookmakers in the Boston area deal with bookmakers all over the country. Because these gambling operations cross city and State lines, and are national in scope, Federal assistance in combating them is essential.

Electronic surveillance by the FBI Boston office involved 11 separate gambling operations from 1970 through January 1975. The telephones that were monitored accounted for a gross volume of \$100 million per year. But this represents only about 5 percent of the total estimated volume of bookmaking in Massachusetts. The estimated annual profit to all illegal gambling operations in the area is \$166 million.

The FBI is using provisions contained in the Organized Crime Control Act of 1970 to reach the group that controls gambling operations, rather than the street level operators. The method used to reach the higher-echelon figures is to develop evidence on a working office, then use that evidence as probable cause to obtain a new affidavit seeking wiretap authority at the next higher level in the operation, and so on up the line.

Organized crime protects its gambling monopolies by threats, beatings, and killings. An independent bookmaker cannot maintain his independence unless his business is too small to interest the organization. This is also true of independent loansharks. The organization has many ways to gain control of independents. In 1973, for example, there was a war between the organization and a group that attempted to branch off on its own. A number of gangland killings occurred during the conflict, but local and Federal law enforcement agencies were unable to obtain enough evidence to make any arrests.

Illegal gambling results in the corruption of police and politicians, but there appears to be less corruption today than in the past. This may be attributed in part to the Federal Government's intensified gambling investigations under the Organized Crime Control Act of 1970. The mere existence of this legislation serves as a deterrent because police and other officials are aware of the Federal Government's determination to prosecute corruption, and the bookmaker realizes that paying police protection is no guarantee of immunity from raids, arrests, and convictions.

Beyond the problem of corruption, there is considerable apathy on the part of some police, who do not believe that people who wish to gamble should be prevented from doing so. In addition, police become frustrated when long, difficult gambling investigations result in a fine to the bookmaker of \$25 or \$50. Long sentences serve as a deterrent to illegal gambling; minimal fines do not.

It is not possible to eliminate all forms of illegal gambling. Antigambling laws do not stop people from gambling. A more realistic goal would be to improve the control of illegal gambling, which involves giving gambling operators long jail sentences, long probations, and heavy fines. If this were done, organized crime would begin to question whether the profitability of gambling outweighed the increased risks.

Legalized gambling is not a deterrent to illegal gambling because it cannot offer the same conveniences that the illegal operators provide. Legal gambling may actually create new customers for the illegal games by encouraging people to gamble who have never done so before.

Topics covered during questioning by Commission members included the following:

1. Combating organized crime. The best strategy for combating organized crime is the one the FBI is currently pursuing--that is, prosecuting as many of the leaders as possible.

2. Televising sports events. Televising of sports events substantially increases the volume of betting on the televised events.

3. Availability of gambling. Because of the public's desire to gamble, if illegal gambling becomes less accessible, the public would turn to the available legal games as a substitute.

TESTIMONY OF:

- Francis X. Bellotti, Attorney General, Commonwealth of Massachusetts*
- John Irwin, Chief, Criminal Bureau, Office of Attorney General
- John Larkin, Chief, Organized Crime Division, Office of Attorney General

APRIL 9, 1975

In 1967, an organized crime section, staffed with members of the Massachusetts State Police, accountants, and career investigators, was established within the office of the State attorney general. Intelligence reports within that section indicate that there are two organized crime structures currently operating in Massachusetts and that the relatively new major independent group seems to be gaining control of the gambling operations.**

Although there have been thousands of arrests in Massachusetts for gambling offenses, very few of those convicted ever serve time in jail, and usually only a small fine is imposed. This sentencing practice merely tends to frustrate the police and create a general apathy among the public. The courts should recognize that illegal gambling offenders are contributors to organized crime and should sentence them accordingly.

If the goal of legalized gambling is to raise revenue for the State, then it can be said that legalized gambling in Massachusetts is successful. But there is little evidence to support the proposition that additional legalization of gambling would have a serious impact on organized crime.

Although police and political corruption are certainly enhanced by the availability of payoff money from bookmakers, the removal of those illicit revenues would probably only send the dishonest officer in search of another source, such as illegal liquor sales.

When government regulates any form of legal gambling, there is a high risk of political corruption; the more regulation, the greater the potential for corruption. Legalization of gambling cannot be a substitute for effective law enforcement.

*By statute, the attorney general of Massachusetts is the chief law enforcement officer of the State, and although this provides him with complete prosecutive authority over all criminal offenses, for the most part the actual responsibility lies with the district attorneys and local authorities.

**See testimony of James Newpher (FBI) for additional information about the two groups or organized crime in Massachusetts.

The following factors should be kept in mind when considering the legalization of various forms of gambling:

1. Lotteries. Although the \$35 million in revenue produced by the lottery in 1974 appeared to be a significant amount, it was less than 1 percent of the State's total budget. At this time, there has been no evidence to indicate that the Massachusetts lottery has had any effect upon the illegal numbers game.

2. Off-track betting. A bill introducing off-track betting would be supported by the attorney general's office because it would simply involve an extension of on-track betting, which has the support of the people of Massachusetts and which has been very successful in raising revenue.

3. Sports betting. Sports betting should not be legalized for many reasons; among them is the widespread belief among athletes, owners, and coaches that sports would be adversely affected.

Topics covered during questioning by Commission members included the following:

1. New numbers games. The new numbers game that Massachusetts is instituting will probably have no significant impact on the illegal numbers game. One reason is that it will not offer credit, as the illegal games does.

2. Mandatory jail sentences. Massachusetts has a law that provides that any defendant charged with a specific gambling violation who has been convicted of the same crime within the past 5 years must serve a jail term of not less than 3 months or more than 1 year. The usefulness of this statute is diminished by the limitations that have been written into it. The statute could be improved by removing the time limit on the prior conviction.

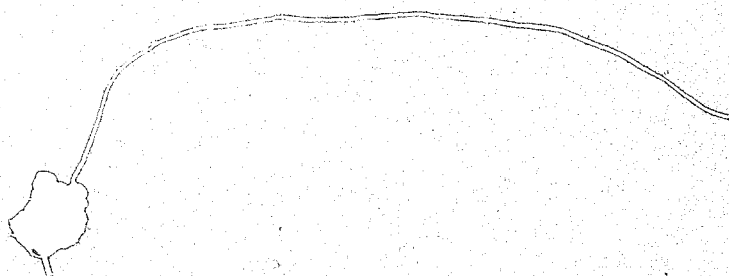
3. Length of judicial process. The time between arrest and trial is about 2 years in the average gambling case.

4. Sentencing. Judges who are informed about the organized crime connections of a convicted gambling operator generally impose stiffer sentences.

5. Control of legalized gambling. If gambling is to be legalized at all, it should be controlled by the government.

6. Combating organized crime. A sustained, intensive, coordinated effort is needed to eliminate organized crime. It is also

necessary to have an informed public. People must understand that the bookie is the foundation of organized crime's gambling empire.



TESTIMONY OF:

- Kenneth T. Lyons, National President, International Brotherhood of Police Officers (IBPO)
- William Norton, Executive Director, IBPO
- Robert Hibbard, President, Springfield IBPO Local
- Bobby Steward, Wilmington Police Department
- Patrick Leonard, Wilmington Police Department
- Carlos Gentasio, President, Worcester IBPO Local
- Jerald Martin, Council Chairman, IBPO; and President, Hartford IBPO Local
- Thomas Lanzi, Council Member, IBPO; and President, Cranston IBPO Local

APRIL 10, 1975

The International Brotherhood of Police Officers has 40,000 members; it is the largest union of law enforcement personnel in the country.

Crimes are defined by politicians through legislation; emphasis in enforcement is determined primarily by prosecutors and, to a large degree, by the sentencing practices of judges. The problem with regard to gambling is twofold: first, laws that outlaw gambling do not stop gambling but rather force it underground; and second, the emphasis on enforcement of such laws drastically misdirects the attention and resources of law enforcement agencies from other types of criminal activity that cause greater harm to society and to individual citizens.

The IBPO believes that legalization and State control of gambling activities such as off-track betting would significantly reduce the huge amounts of money flowing into the coffers of organized crime from its bookmaking operations. Other benefits of off-track betting include additional revenue for the States both through the operation of the system and taxation of winnings. At a time when demands for services are threatening to bankrupt the cities, the financial benefits to be derived from legalized gambling would represent an untapped and sizable source of income. State legislatures cannot succeed in abolishing illegal gambling through statutory enactments. The only logical way to deprive organized crime of the fruits of gambling is to legalize and control it.

Recently released FBI statistics show alarming increases in all categories of personal and property crimes. All available law enforcement resources should be focused on these crimes.

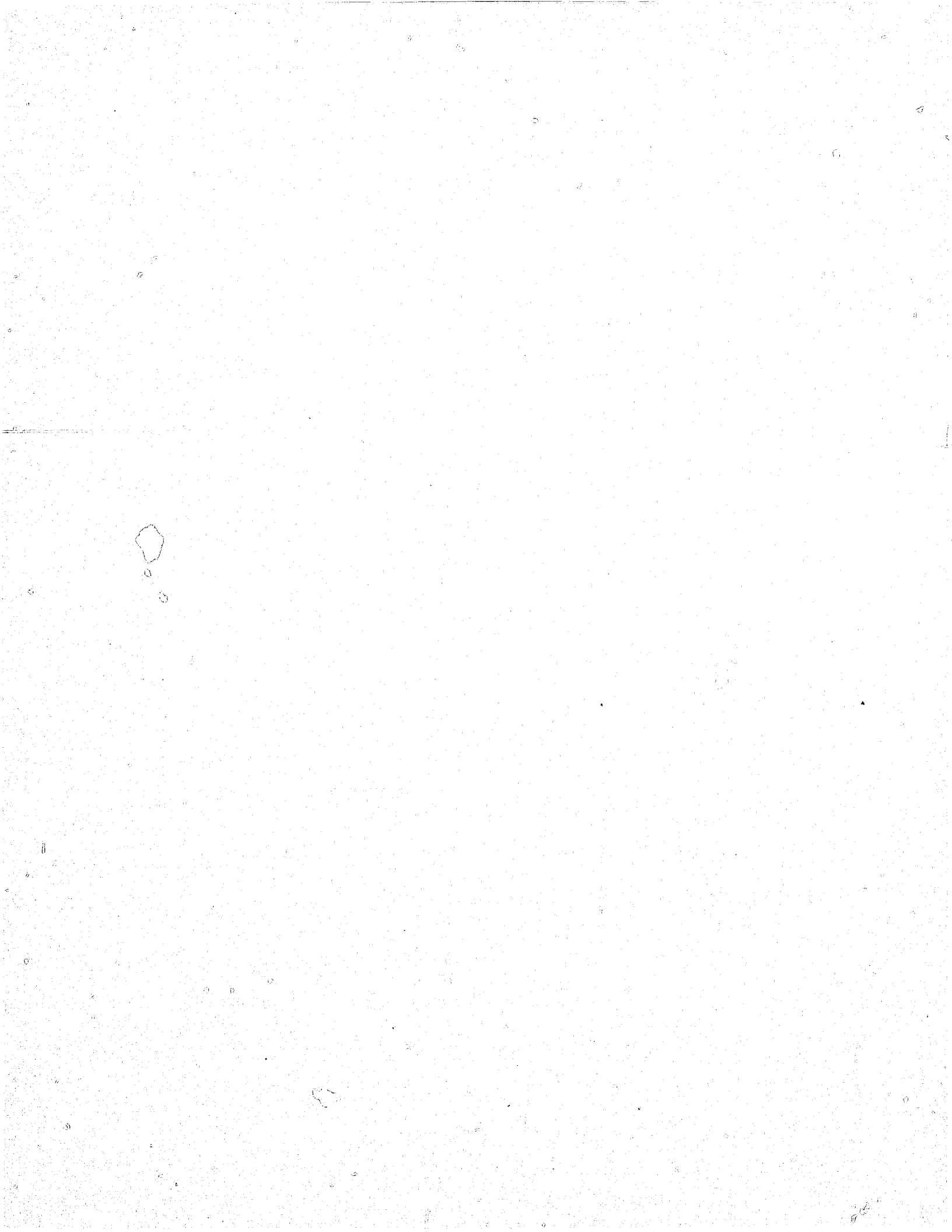
Topics covered during questioning by Commission members included the following:

1. Majority view on gambling. The majority of police officers in the country favor legalization of gambling.

2. Control of illegal gambling. Because organized crime controls illegal gambling, it is unrealistic to believe that the patrol officer on the street can do anything about it. A patrol officer who attempts to enforce gambling laws will be transferred to a less favorable assignment the next day.

3. Betting convenience. In off-track betting, bettors seek convenience. They will place their bets with either the legal or the illegal bookmaker depending on which is the most convenient.

4. Illegal betting in Boston. It is not difficult to place an illegal wager in Boston, although illegal gambling is not as prevalent there as it once was.



CONTINUED

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TESTIMONY OF:

● Charles V. Barry, Secretary of Public Safety, Commonwealth of
Massachusetts

APRIL 10, 1975

There should be prohibition of some forms of gambling coupled with legalization of others. Some forms of gambling such as the lottery, bingo, and OTB can be conducted efficiently, honestly, and successfully for the entertainment of the public. Lotteries have earned the respect and support of the public. The government has had total success in legalizing and controlling the game of beano (bingo). Perhaps the methods and systems used by the government in the legalization of beano could be applied to other forms of gambling. The New York experience with OTB has been successful, and Massachusetts is considering an off-track betting operation. It would be difficult to develop a proper system of controls for sports betting to insure the integrity of the game.

It is difficult to ascertain whether legalization induces people to gamble who would not have gambled previously. However, many of those who do gamble legally would have done so illegally had a legal game not been available. Legalization of new forms of gambling will require much study, experimentation, and public approval. The experience with legalized gambling provides a basis from which new forms of legalized gambling can be devised.

Topics covered during questioning by Commission members included the following:

1. Beano. The introduction of legal beano has eliminated the illegal games similar to beano that were controlled by organized crime.
2. Legalized sports betting. There is not enough information available yet to determine whether a proper system of control could be developed for legalized sports betting.
3. Massachusetts lottery. The lottery appears to have drawn some customers away from illegal gambling, but it is not possible at this time to estimate how many. In addition, people are buying lottery tickets who have never gambled before. This is not a cause for concern because for many people, gambling is a form of entertainment.
4. Illegal gambling in Massachusetts. In the past 10 years, illegal gambling on horses and numbers has decreased due to increased law enforcement efforts and increased cooperation among local, State,

and Federal law enforcement authorities. Contrary to the claims of some of the other witnesses before the Gambling Commission, it is not so easy to place an illegal numbers or horse bet. However, betting on sports events has increased in the past 3 or 4 years due to the introduction of pool cards into schools and colleges and many other places. High school students sell pool cards to other students for \$1. The betting is primarily on professional football games.

TESTIMONY OF:

• John F. Kehoe, Jr., Commissioner, Massachusetts State Police
APRIL 10, 1975

There are approximately 14 men within the Massachusetts State Police Department assigned to a "Special Service Unit," who are primarily responsible for conducting investigations regarding illegal gambling. During the past 5 years there have been more than 1,200 gaming arrests by the Massachusetts State police in cooperation with the Federal Bureau of Investigation and local enforcement authorities. Court-authorized wiretaps were utilized during that period in six gambling investigations; all the cases that resulted in arrests were successfully prosecuted.

Although lack of manpower and funds inhibit proper enforcement, the Massachusetts antigambling statutes provide adequate tools to suppress and control illegal gambling.

Organized crime controls the illegal gambling operations in Massachusetts. The legal games (bingo, lottery, etc.) do not serve as competition for the illegal operations.

Illegal gambling is divided into three groups in the Commonwealth: numbers, sports betting, and horse- and dogracing. Sources indicate that the numbers volume alone is between \$3 million and \$4 million a week in eastern Massachusetts, and the dollar volume of sports book-making is considerably higher.

An off-track betting system based on the successful New York experience would be acceptable. However, legal OTB probably would not significantly reduce the amount of money currently amassed by organized crime.

The integrity of a sport could not be properly insured in legalized sports betting because it would be difficult to prevent the involvement of organized crime or to guarantee the maintenance of strict controls.

A mandatory 1-year jail sentence for illegal gambling offenses, rather than legalization, is the other way to reduce effectively the control that organized crime presently has over gambling.

The previous witness, Charles V. Barry (Massachusetts Secretary of Public Safety) participated with Mr. Kehoe during questioning by Commission members. Topics covered included the following:

1. Betting by bookmakers. Many bookmakers are gamblers themselves, and are always looking for the betting edge. They may attempt to bribe players who are in a position to affect the outcome of a game. This is the case mainly with respect to high school and college sports.

2. Street bookmakers. A few street bookmakers, those who take bets as a sideline, make approximately \$150 to \$300 a week from numbers bets. Most make less, however. In many cases, there are different bookmakers for numbers, OTB, and sports betting.

3. Corruption of police officers and prosecutors. There have been no arrests of police officers or prosecutors for gambling-related corruption. There is no evidence that such corruption exists to any significant degree.

4. Combating organized crime. With additional manpower, mandatory sentences, and quick trials, illegal gambling could be significantly reduced within the next 10 years.

TESTIMONY OF:

- Robert J. Digrazia, Commissioner, Boston Police Department
- Joseph Jordan, Superintendent in Chief, Boston Police Department
- John Doyle, Deputy Superintendent, Boston Police Department
- Nicholas Foundas, Legal Advisor, Boston Police Department

APRIL 10, 1975

The Massachusetts gambling statutes are inconsistent in that they strictly prohibit all forms of gambling yet allow certain civic and church groups to engage in gambling activities. Although the State uses the revenue from the Massachusetts Lottery for "good purposes," the general public is disillusioned with the existing laws permitting diversity of enforcement of gambling statutes.

At present the police department has a vice squad consisting of 20 detectives who work in close coordination with the Massachusetts State police and Federal agencies. This unit spends 50 percent of its time on gambling enforcement. Although arrests have increased, only two people within the past 5 years have been jailed for illegal gambling.

It has been estimated that 20 percent of the adult population in Boston places bets. In the city of Boston alone, more than \$100 million is spent annually: 60 percent on sports, horses, and dogs; and the remaining 35 percent to 40 percent on illegal numbers.

It is accepted as true that illegal gambling is controlled by organized crime and is the provider of funds for usurious loans. Intelligence reports indicate that there are five structured organized crime groups operating in the metropolitan area of Boston and there could be up to 50 major bookmaking operations currently active. According to arrest records, there has not been any noticeable decrease in illegal gambling since the Massachusetts Lottery began.

With all the expenditure of law enforcement resources--time, people, and money--there is little indication that the present system of combating illegal gambling is serving the needs of the community. Enforcement effectiveness is at a relatively low level. The broad objective is to keep the situation under control rather than eliminate illegal gambling altogether.

There are a number of ways in which efforts of the criminal justice system to combat illegal gambling could be improved. The laws could be strengthened. Stiff minimum fines could be provided for convicted gamblers or mandatory jail sentences could be imposed. The police department could increase its enforcement effort by adding manpower. The increased arrests resulting from this campaign would require the district attorney's office to hire more prosecutors, and jail

facilities would have to be expanded. But none of this would be effective in the long run. Increasing levels of enforcement do not deter people from engaging in activities that they do not believe are wrong.

Legalization is a sensible alternative to vigorous enforcement because of the funds and manpower required for the latter. It is time to stop the hypocrisy, corruption, and wasted police and court time. Gambling laws breed corruption as evidenced by the fact that every major scandal within the department over the past 35 years has been related to gambling.

If gambling were legalized, it must be determined how it should be executed. Legalized gambling can be successful in competing with organized crime only if it is administered by the State rather than by licensing a bookmaker, who would be difficult to regulate.

Topics covered during questioning by Commission members included the following:

1. Public reaction to illegal gambling. The general public is not generally alarmed over the problem of illegal gambling. From time to time there is a gambling-related scandal in which illegal bookmaking operations are uncovered and given a great deal of publicity in the media. But in a short time, there is business as usual, and the bookies in question are back on the street. In one 2-year period, there were approximately 504 gambling arrests but not a single defendant went to prison. The police often are wrongly blamed for the continued existence of illegal gambling.

2. Legalized gambling. If legalized gambling can reduce the profits to organized crime, it is an experiment worth trying. The goal of fighting crime through legalized gambling is more important than the goal of raising revenue for the State.

3. Gambling arrests. When gambling arrests result only in the payment of fines, this amounts to a situation in which the courts assume the role of a collection agency for gambling license fees.

4. Legalized sports betting. Legal sports betting might increase the volume of betting on sports events, but probably not to a significant degree. If the integrity of sports has not been affected by illegal sports gambling, it should not be affected by legal gambling.

5. Complicity of the bettor. Massachusetts law does not prohibit the placing of bets. If betting illegally were made a felony, fewer people would take the risk. This might be a good strategy to use

in conjunction with legalized betting--that is, to criminalize the placing of an illegal wager.

TESTIMONY OF:

• Charles Rogovin, Attorney
APRIL 10, 1975

There are a number of issues that the Commission should consider in its deliberations, including the following:

1. To date, there is no accurate information as to the total dollar volume of illegal gambling in the United States. The Commission should make an effort to develop this information.

2. Has the total law enforcement effort directed against illegal gambling had any productive effects?

3. If such effects cannot be established, should law enforcement resources be used for other purposes?

4. Apart from the question of whether illegal gambling has been reduced as a consequence of law enforcement efforts, are there other reasons for retaining the statutory prohibitions against gambling?

5. Consideration should be given to the problems that confront police. On one side is their legislative mandate to enforce antigambling statutes and on the other is the public's demand to do what the criminal law condemns. Historically, much of the corruption in law enforcement and the criminal justice system has been related to the presence of illegal gambling activities.

6. The Commission should determine whether the two stated goals of gambling legalization can be achieved simultaneously--that is, denying organized crime its major source of revenue, and raising revenue for the States. These two objectives may be incompatible.

7. Given the imagination, ingenuity, and creativity of organized crime, is it preferable to have government-operated legal gambling rather than a system of licensed private operators?

8. If gambling is legalized, serious consideration should be given to the problem of eliminating unauthorized competition. As long as a bettor can have tax-free winnings on illegal bets, illegal gambling will have the advantage over its legal competitor.

9. If gambling becomes a government-operated enterprise, it must meet the range of citizen demands that currently exist. This means that the government must offer wagering on any sporting event on which definite odds are available. The government probably could offer equal or better odds than the illegal bookmakers because it would not have the expense of paying corruption money.

Topics covered during questioning by Commission members included the following:

1. Effectiveness of antigambling efforts. No level of law enforcement--local, State or Federal--has demonstrated any real effectiveness in combating illegal gambling.

2. Legalization policy. If the National Gambling Commission determines that legalization of gambling is the best means for combating organized crime, it should recommend that the legal games be totally competitive with the illegal ones. This means offering credit and tax-free winnings, and all of the other conveniences offered by the illegal bookmaker. It also means sacrificing the goal of generating any significant revenue for the government.

3. Government role. It is not improper for the government to deliver services that its citizens demand.

4. Dual structure. If gambling is legalized, the laws against illegal gambling should still apply. This might encourage criminal justice agencies to change their attitude toward gambling offenses. If a legal system exists to deal with the demand for gambling, then the operator of the illegal game becomes an "outlaw" whose actions are contrary to the public good.

5. Combating organized crime. If legal gambling succeeds in depriving organized crime of its gambling revenue, organized crime would still exist because it has aspects that operate without the benefit of gambling revenue. However, law enforcement has a variety of sophisticated crime-fighting tools available to it, such as electronic surveillance, and it should succeed in the long run in significantly reducing the influence of organized crime.

6. Sports betting versus horserace betting. Some opponents of legalized sports betting believe that an important distinction must be made between betting on animals and betting on humans. With regard to legalized gambling, this distinction is meaningless.

7. Sports betting. Legal gambling will not alter the basic nature of professional athletic competition, in which athletes play for money and not for the love of the game. Legal gambling would not harm amateur athletics either, since there already exists a tremendous volume of betting on nonprofessional athletic events.

8. National policy on gambling. On the Federal level, the National Gambling Commission should recommend that the Congress enact a law exempting winnings in legal gambling from Federal income tax. On the State level, each State should decide whether or not it wishes

to legalize gambling. The Commission should recommend uniform legislation for States wishing to legalize gambling.

9. Civil remedies. Consideration should be given to the establishment of civil injunctive remedies that would be applied to those who are convicted of gambling violations. A judge could enjoin a convicted defendant in a gambling case from continuing in the gambling business. If the defendant resumed his gambling activity, the judge could find him in contempt of the injunctive order and punish him accordingly.

10. Delay of sports broadcasting. If the networks delayed the broadcasting of sports events for 30 minutes, it would not deter the gambling activity on these events. Delays in the broadcasting of horseraces has not hindered illegal gambling either.

TESTIMONY OF:

• Jack Kelly, WNAC TV, Boston, Massachusetts
APRIL 10, 1975

(The testimony of Jack Kelly is based on his discussions with bookmakers, police officers, and prosecutors on the subject of gambling.)

Millions of dollars are wasted each year in futile attempts to eliminate illegal gambling. There are two reasons for the ineffectiveness of law enforcement of antigambling statutes: First, the public enjoys gambling and will continue to engage in it regardless of illegality. Second, although the police force does arrest bookmakers, this does little to reduce the actual number of bookmakers on the street since new people quickly fill their positions.

No law enforcement agencies have been responsible for any effective reduction in illegal gambling. In a large gambling raid in Massachusetts led by the Organized Crime Strike Force of the U.S. Department of Justice, 94 indictments were returned. Although a tremendous amount of preparation went into those raids, the actual function of gambling was disrupted for only one day.

The Justice Department, along with most other law enforcement agencies, maintains that prosecutions for illegal gambling are the only way to remove organized crime from our society. Thus far, the downswing of the economy has been the most effective deterrent to illegal gambling. Legalization of gambling is a better approach to reduce illegal gambling activities. It would be effective because it is assumed that a bookmaker would readily give up his criminal activities if he could make as much money by gambling legally. The National Gambling Commission should grant immunity from prosecution to an illegal bookmaker in return for firsthand information on the workings of illegal gambling.

The ineffectiveness of law enforcement can be attributed to many factors. Aside from police corruption, police patrolmen give priority to crimes other than gambling that they feel require more immediate attention. In addition, the police are aware that arresting a bookmaker may have dangerous consequences because someone higher up in the police hierarchy may be getting paid to keep him on the street.

The establishment of legalized gambling should be executed through the following tactics: Regulation can occur on two alternative levels-- State or Federal. All revenue produced above cost should be allocated in an intensified law enforcement drive against illegal gambling. Bookmakers who acquire licenses should continue their profession in the legalized game. Licenses would be distributed on a basis of

statutory regulations that would give law enforcement more control over organized crime, in much the same way that the distribution of liquor licenses gives authorities control over who runs liquor operations. This licensed bookie method would not only be effective in producing substantial revenue but also would eliminate illegal gambling competition. The bookmaker, rather than the government, would incur the taxes and would have the responsibility for granting credit. Although heavy taxes might initially cut into profits, the projected increase in business would serve as a compensation.

Topics covered during questioning by Commission members included the following:

1. Harassment of bookmakers. Bookmakers are constantly harassed by law enforcement. They are photographed, followed, and wiretapped. But this harassment by law enforcement has little or no effect on the ability of the bookmakers to conduct their business.

2. Decline of bookmaking on horseraces. Bookmaking on horse-races has decreased because the public is less interested in this type of betting and more interested in sports betting.

3. Licensing bookies. If bookmaking were legalized, some of the current illegal bookies would seek licenses. As long as there were some form of tax on legal bookmaking operations, there would be minor competition from illegal operations, but it would not be a major problem.

4. State-operated sports betting. If the State attempted to legalize and operate any form of sports betting other than pool cards, it would go out of business very quickly.

5. Organized crime. If gambling were legalized on a licensing basis, many members of organized crime would undoubtedly acquire gambling licenses. But they would operate legitimately and after a while gambling would no longer be associated with crime. The same thing occurred after the repeal of Prohibition, when many bootleggers acquired legitimate liquor businesses.

6. Loansharking. Generally, gamblers who are indebted to bookmakers are given the opportunity to pay back the money gradually, or to deduct subsequent winnings from their debts, and thus they do not need to borrow money from loansharks. People who wish to open a new business sometimes borrow money from loansharks when the banks have refused to lend them the money.

7. Educating the public. The time is not right for educating the public about the evils of organized crime because the public is more interested in learning about the wrongdoing of its government.

TESTIMONY OF:

• John E. Fitzgerald, Jr., Attorney
APRIL 10, 1975

(Many organized crime figures were indicted as the result of the testimony of one of Fitzgerald's clients. Mr. Fitzgerald was subjected to numerous threats and pressures designed to force him to prevent his client from testifying. Through his representation of various organized crime figures, he has gained a firsthand knowledge of many illegal operations and key figures in them.)

The lifeblood of organized crime is its sponsoring of an involvement in illegal gambling. The primary sources of revenue for organized crime are illicit gambling operations and loansharking. These profits are used to finance other illegal activities, such as corruption of police and other public officials, as well as the domination of legitimate businesses.

Vigorous law enforcement is the way to contain and weaken organized crime. Full support should be given to legislation that would further supplement the powers of the FBI and the Strike Forces of the U.S. Department of Justice. Not until the early part of the 1960's was legislation enacted enabling the FBI to exert a full attack upon organized crime and illegal gambling--an attack that has had a significant impact on underworld activities.

People connected with organized crime do not hesitate to use violence to accomplish their objectives.* Those who control the rackets in Boston have committed murders and have bankrolled gang wars. They have been involved in every conceivable type of crime known to man.

Topics covered during questioning by Commission members included the following:

1. Strengthening law enforcement. Federal authorities should be given increased manpower and financial support in their fight against organized crime. Closer coordination among different law enforcement agencies also is needed. Convicted organized crime figures should be given 30-year sentences by Federal judges.

*Mr. Fitzgerald himself was the subject of organized crime violence. He was almost killed by a bomb that exploded in his car, placed there because certain organized crime figures believed that he was going to testify against them.

2. Legal gambling in Massachusetts. The introduction of legal gambling in Massachusetts has not hindered the illegal operations at all. But legal gambling has increased the public's apathy toward illegal gambling. Additional legal gambling probably would boost the loansharking business because more people would incur gambling debts.

3. Incarceration of organized crime figures. When Raymond Patriarca was incarcerated, gambling-related violence decreased. There have been two gangland murders in Rhode Island since Patriarca's release.

4. Bail for arrested bookmakers. When bookmakers are arrested, bail money generally comes from someone other than the bookie himself.

TESTIMONY OF:

- Robert B. Ambler, Chairman, Committee on Government Relations, Massachusetts General Court
- Ken Robbins, Legal Advisor, Committee on Government Relations

APRIL 11, 1975

Since 1970, the Joint Committee on Government Regulations of the Massachusetts General Court has been designated to study legalized gambling. It is the mandate of the committee to obtain a public consensus toward gambling, and to determine the extent of illegal gambling and the extent to which organized crime is involved. In December 1972, the committee released a report based on its numerous public hearings and research. Following are the highlights of the committee's findings.

There are three basic goals any legalized gambling proposal should satisfy: First, if it is the purpose of the government to attack organized crime, legalized gambling should contribute to the achievement of that goal. Second, legal gambling should be acceptable to the citizenry. Third, sufficient revenue should be derived from legalized gambling to justify its existence.

The volume of illegal gambling would decrease if the State-operated gambling activities offer the same or more attractive betting games than organized crime does now. The key is to analyze each form of gambling and to determine in which areas legal gambling will be able to compete effectively with the illegal counterparts and in which cases it cannot.

Gambling is a popular activity and people have convincingly demonstrated that they want the opportunity to gamble. The continued success of illegal gambling and the amount grossed on legal gambling reflects the acceptability of gambling as a form of recreation.

The demand for increased governmental services, as well as other fiscal needs, have created strong pressures for additional revenue. Although its full potential is uncertain, it is known that the State lottery will produce \$35 million and racetracks will produce \$34 million. The establishment of sports pool betting could yield as much as \$60 million per year, and off-track betting could provide \$30 million in additional revenue for the State. These reasons provide more than adequate justification for the government to enter this activity.

It has been feared that legalized sports betting would tarnish the integrity of the sport. There is such an enormous amount of illegal gambling in existence that it is highly unlikely a paid athlete will succumb to the pressures to fix games merely because gambling is

legalized. The possible association of organized crime with sports teams poses a far greater threat to the integrity of the sport.

OTB in New York has been a profitable enterprise and, if properly designed, it will not damage the racing industry. Sports pool betting has the best potential for immediately satisfying the goals desired in legalized gambling. It would provide instant revenue while incurring minimum costs and it would compete effectively with the game now run by organized crime.

The contention that legalized gambling will be supported by those who can least afford it is not true. The overwhelming majority of lottery winners have been middle class working people. It is also an elitist notion that one segment of society should arbitrarily determine how another segment of society should allocate its money.

The benefits of legalizing some forms of gambling far outweigh the possible disadvantages. It is a legitimate form of recreation; it is a potential source of revenue; and if used properly, it can prove to be a tool in the fight against organized crime.

Topics covered during questioning by Commission members included the following:

1. Gambling in the labor movement. Gambling on numbers and football cards is commonplace among the working class. Workers who gamble do not associate gambling with criminality. Gambling addiction has not been a problem in the labor union with which the witness has been associated for the past 20 years.

2. Lottery support. At first, many legislators were skeptical about establishing a legal lottery. But their views have changed because the Massachusetts lottery has been run honestly and efficiently.

3. Goals of legal gambling. The main reason for legalizing gambling is to provide the people with a service that they demand. Other reasons for legalizing gambling--such as raising revenue or combating organized crime--can be considered fringe benefits.

4. Ability of legal gambling to compete with illegal gambling. Legal gambling should not offer true credit betting, but should permit bettors to bet by telephone against pre-established accounts, as is now done in New York City OTB.

5. Government role. Legal gambling should be operated by the government; current illegal bookmakers should not be licensed.

6. Decline of track attendance. When OTB was first introduced in New York, track attendance declined. But now attendance is slowly increasing, and track wagering is as high as or higher than it was before OTB.

7. Single event sports betting. The government could not operate single event sports wagering because it would be unable to lay off bets.

8. Legal lottery versus illegal numbers. The legal lottery in Massachusetts has caused as much as a 55 percent reduction in the illegal numbers play. Many bookmakers do not bother to take numbers bets any more. The information to this effect comes mainly from word-of-mouth testimony.

TESTIMONY OF:

• Anonymous Witness

APRIL 11, 1975

(The witness was recently convicted by a Federal court for interstate gambling on baseball. This conviction is being appealed. His testimony follows.)

An organized framework of bookmaking operations exists throughout the country. In Boston, 50 percent of the adult male population places bets with bookmakers, and the other 50 percent bets socially among themselves. The annual expenditure in the Boston area on sports is more than \$1 billion. The average bet on a sporting event probably ranges from \$25 up. On certain sports events--such as the Super Bowl and the World Series--there might be a billion dollars bet nationwide.

Of the individuals who are engaged in sports bookmaking, 98 percent do not engage in other forms of wagering. The credit bookmakers extend to their customers is built on faith. It is a misconception that exceptional losses lead to crime. An experienced bookmaker knows his customers and what they can afford. Most of the time he establishes a limit over which, for the customer's own good, he will not accept bets. The odds have recently changed from 11 to 10 to 6 to 5 on sports events. A \$100 wager at 6 to 5 gives a bookmaker a profit of 8.3 percent; at 11 to 10, it is 4 to 5 percent.

There has been opposition to the legalization of sports betting because it would threaten the integrity of the game. It is not in the interest of a bookmaker to fix a game or to bribe an athlete because bookmakers have a great interest in preserving the integrity of the game.

Effective enforcement of antigambling statutes is almost impossible because the public wishes to wager; therefore, gambling arrests have little effect on illegal operations since new bookmakers spring up immediately to fulfill the public's desires.

Legalization is the only realistic solution to the gambling problem; its benefits would be manifold. The same conveniences should be offered as in the illegal game--such as betting by phone, extension of credit, and control by private interests. Only a minimal amount of money should be spent on advertising. Bookmakers should be licensed under the following framework:

1. Licenses would be issued on the basis of population.
2. Licensees would be required to post a bond to guarantee payment to winners.

3. Licenses would be renewed annually.
4. Full financial disclosure and review would be conducted by authorities at their option.
5. No individual could own or have interest in more than one betting shop.
6. A bettor's credit could not exceed the amount of his deposit.
7. Winnings would not be taxed nor losses be allowed as a deduction.
8. A nominal local, State, and Federal tax would be added to each wager.
9. Taxes would be paid by the operator on a weekly basis.
10. No food or alcoholic beverages would be permitted on the premises.
11. The amount of individual wagers would be based on a percentage of the client's deposit.
12. Any customer must be at least 18 years of age.
13. A shop could accept wagers only on sporting events.
14. Hours would be 11 a.m. to 7 p.m.
15. Since a customer would be able to be a client in more than one shop, he would have the opportunity to compare lines of point spreads.
16. A shop's license could be automatically revoked by any violation.
17. A minicomputer for tax purposes must be part of each shop.

Topics covered during questioning by Commission members included the following:

1. Betting population of Boston. Approximately 50 percent of the adult male population of Boston bets with bookmakers. The other 50 percent bets among themselves.

2. Volume of illegal betting. The estimate of the annual handle in the Boston area supplied by the Police Commissioner--\$5 million--is much too low.

3. Sports bookmakers. Ninety-eight percent of the sports bookmakers engage exclusively in sports bookmaking and do not take bets on numbers or horseraces.

4. Legal pool cards. The introduction of legal sports pool card betting would not affect illegal sports betting.

TESTIMONY OF:

- Bill Cusack, General Manager, WBZ Radio, Boston, Massachusetts
- Harry M. Durning, Jr., Editorial Director, WBZ Radio and Television

APRIL 11, 1975

In the fall of 1974, WBZ launched a major editorial campaign for the full legalization of the common forms of gambling (off-track betting, numbers, and sports betting) at both the State and Federal levels. In the past, the station had opposed legalized gambling, but through much study and a careful analysis of the situation, it became convinced that legalization was the only answer to the gambling problem.

Illegal gambling is the financial heart of the underworld. It is also the most important single factor in the corruption of the criminal justice system. Illegal gambling places the police in the almost impossible situation of having to enforce laws that most of the people are willing to break every day. The result is that billions of dollars wagered every year go to bankroll criminals rather than to pay for government.

WBZ agrees with opponents of legalized gambling who claim that there are better ways for the State to raise money. But raising money is only part of the problem. The other part of the problem is organized crime. WBZ believes that both goals--raising revenue and combating organized crime--are important and should be sought, but that the law enforcement goal must take precedence. Associated with the problem of organized crime is the problem of gambling-related corruption of police and other officials. The station believes that all forms of gambling currently contributing to this corruption and to the enrichment of organized crime should be legalized. This would not include legalizing Nevada-style casino gambling. Illegal casino gambling is not a problem in New England; therefore, there is no reason to introduce a whole new type of gambling, particularly one that is likely to attract additional organized crime influence.

Most of the arguments presented by opponents of sports betting are fallacious. There would be too many problems to surmount in legalizing all forms of sports betting immediately, but the State could begin by legalizing pool card betting. In order to compete with illegal bookmakers, the State would have to open betting parlors around the city, provide some form of credit betting, and offer a tax break to the winners.

Topics covered during questioning by Commission members included the following:

1. Advertising. Federal standards should require the publication of an individual's actual chances of winning as part of all gambling advertisements.

2. Use of legal gambling proceeds. Some of the profit from legal gambling operations could be used to bolster law enforcement in the sports field and to combat illegal gambling.

STATEMENT SUBMITTED BY:

● Walter Stone, Superintendent, Rhode Island State Police
PRESENTED BY:

● Edward D. Pare, Captain, Rhode Island State Police
APRIL 11, 1975

In 1969, a bill known as the Governor's Crime Package was passed. It included court-authorized wiretapping and witness immunity. These two tools have caused illegal bookmakers to alter drastically their methods of operation.

The majority of Rhode Island's antigambling statutes fall into the misdemeanor category, although a few--such as promoting a lottery and second-offense gambling convictions--are classified as felonies. Since Rhode Island law specifies that wiretaps may only be used in investigations involving potential felonies, it is extremely difficult to obtain wiretap authorization against persons known to be active in bookmaking for organized crime and who have not been previously convicted under existing Rhode Island law. Enabling legislation has been requested to expand the State's wiretapping authority.

The legalization of gambling would not have any serious effect on organized crime because the State cannot effectively compete with the illegal gambling operations, which can extend credit and avoid Federal and State taxes. In addition, some concern has been expressed about the fact that known organized crime figures have been affiliated with certain legal operations such as bingo and casino events for charity.

All enforcement agencies must realize the serious consequences resulting from the indifferent attitude toward both the prosecution and sentencing of gambling offenders. The utilization of wiretapping, strict law enforcement, and stiff jail sentences are more effective tactics than legalization in reducing the activities of organized crime.

Topics covered during questioning of Captain Pare by Commission members included the following:

1. Legal gambling in Rhode Island. The only forms of gambling which are legal in Rhode Island are the State lottery and parimutuel wagering at horseraces. Legislation that would legalize dogracing is pending.

2. Mandatory jail sentences. Mandatory jail sentences should be imposed for gambling offenses.

TESTIMONY OF:

• John J. Buckley, Sheriff, Middlesex County, Massachusetts
APRIL 11, 1975

The Pennsylvania Crime Commission reports that 99 percent of those found guilty of gambling charges receive a fine or probation or both. Despite widespread gambling less than 1 percent of those convicted go to prison.

At the Middlesex County House of Correction, less than 10 men--less than 1 percent of the prison population--were incarcerated in 1974 on gambling convictions. From the point of view of the prison administrator, convicted gamblers in prison represent a problem. Because they are not a security risk these prisoners quickly obtain furloughs and are permitted to live in dormitories, and then participate in a work release program. This kind of treatment causes unrest among other prisoners who are denied such privileges. Cost is also a problem. The cost of incarceration may be too high to justify the confinement of this type of nonviolent prisoner.

Gambling is commonplace among the populace, and it is not surprising that a large segment of society remains indifferent to the prosecution of gambling offenders. Public apathy toward gambling has allowed gambling-related corruption to affect all levels of the criminal justice system.

Gambling enforcement does not belong in the criminal justice system. The costly law enforcement effort against illegal gambling has met with little success. Gambling bosses are rarely convicted. The incarceration of gambling offenders is illogical, ineffective, and expensive. Most important, the public views law enforcement efforts against gambling as a mockery and as a corrupting force.

Gambling should be legalized under a system of strong, effective controls. The media must assume an active role in educating the public about the many invisible and potentially corrupt aspects of the gambling world. Legalized gambling would not eliminate the organized crime syndicates that control gambling, but it would deprive organized crime of a significant source of revenue.

In Massachusetts, the profits obtained from legal gambling should be used to help individual communities, providing funds for educational services for children with special needs, for example.

What is needed, in short, is a system that will restore public faith in the criminal justice system and in government, increase tax revenues, and encourage the public to assume responsibility for its own entertainments, of which gambling is one.

Topics covered during questioning by Commission members included the following:

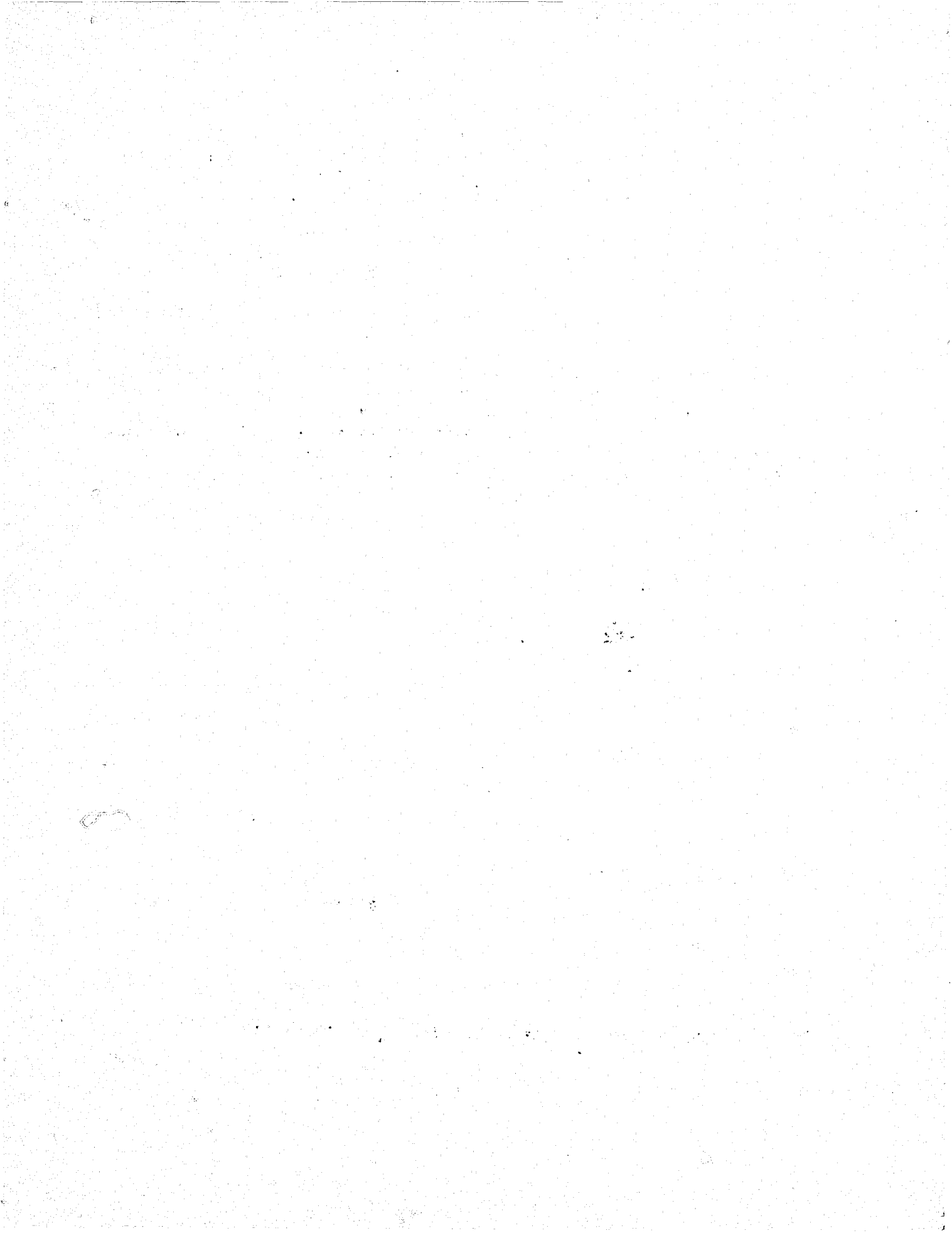
1. Gambling legalization. Gambling should be legalized in stages rather than all at once. Legal gambling would gradually result in a reduction in the type of gambling-related violence in which a previous witness before the Gambling Commission was involved.*

2. Combating organized crime. The only way to combat organized crime in the gambling field is to compete effectively with it for the gambling dollar. The State has the ability to do this.

3. Gambling addiction. The number of people seeking help from Gamblers Anonymous in Massachusetts is very small.

4. Mandatory sentences. Mandatory sentences should not be imposed for gambling offenses. Mandatory sentences interfere with the checks and balances system built into the court function. Massachusetts law currently provides a mandatory sentence for second gambling offenses but the courts are not enforcing the provision because the public does not really want it enforced. The courts are simply reflecting the public's apathy toward gambling offenses.

*See testimony of John E. Fitzgerald, Jr., April 10, 1975.



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TESTIMONY OF:

- Davis Etkin, President and Chief Executive Officer, Schenectady Off-Track Betting Commission
- Ray Blanchard, Executive Director, Schenectady Off-Track Betting Commission

MAY 6, 1975

Legalized off-track betting without question has hurt illegal bookmaking on horses in Schenectady County. Legalized OTB is more acceptable to the public than illegal wagering through bookmakers because: (1) The bettor does not have to worry about being caught in a police raid; (2) the bettor has absolute assurance of a payoff if he wins; and (3) OTB can offer comparable and sometimes better odds than the illegal bookmaker, at least in races run in New York State.

OTB in Schenectady has enjoyed widespread public acceptance since its inception. OTB revenue has prevented the imposition of a sales tax and has kept property taxes down. In 1974, OTB contributed more than \$700,000 to the city's general fund in addition to providing employment and spending large sums on local purchases.

The Schenectady Off-Track Betting Commission differs from both New York City Off-Track Betting (NYCOTB) and Western Regional Off-Track Betting (WROTB) in that it is an agency of the city of Schenectady, created by the Schenectady City Council, and therefore is governed by the general municipal law, the second class cities law, and all other city statutory regulations that govern other city bureaus and departments. The city must approve of all SOTB contracts, leases, and other obligations. SOTB is actually an advisory unit to the Schenectady City Council.

Although SOTB has had the complete cooperation from the City Council, it could operate more efficiently as a public benefit corporation. Promotions, financing, marketing, and purchasing are all more difficult under the city structure. The OTB staff is hindered by having to clear every action through the City Council. OTB is a full-scale business, not a municipal operation, and therefore should be structured like a business.

SOTB opposes uniform takeout and distribution of revenue within the State. Fifty-five percent of SOTB's total commissions to the tracks go to Saratoga Harness Track, but the wagering on that track generates only 10 percent of SOTB's business.

Although the 5 percent surcharge on OTB winnings has increased the net profits to the city, it has limited the growth of the OTB operation and should be eliminated. Elimination of the surcharge would

enable OTB to compete more effectively with illegal bookmakers. Other recommendations designed to enable OTB to compete favorably with illegal bookmakers are:

1. Elimination of Federal and State taxes on winnings;
2. Sealing of telephone betting records so that the bettor does not have to fear that investigatory agencies will use such records against him;
3. Permitting OTB to take wagers on out-of-State races;
4. Permitting instant transmission of racing information, particularly on radio and television;
5. No additional Federal taxes on OTB;
6. Legalization of all sports and numbers betting.

Those who believe that OTB cannot accomplish more than one objective are mistaken. In Schenectady, OTB has: (1) Decreased illegal betting on horses; (2) put money into the municipal treasury; and (3) stimulated and improved the racing industry.

Topics covered during questioning by Commission members included the following:

1. Gambling arrests and convictions. There were 20 such arrests and convictions in Schenectady during the past year. The penalties were fines ranging from \$250 to \$500.
2. Compensation of out-of-State tracks. Some out-of-State tracks are compensated by SOTB, while others that refuse to deal with OTB, such as Churchill Downs, are not.
3. Daily handle and attendance. The average daily handle and average daily attendance at the two Schenectady tracks have increased, but attendance has declined at the three New York Racing Association tracks. How much of the decline is attributable to OTB is unknown.
4. Telephone betting. Telephone betting accounts for between 17 percent and 20 percent of SOTB's handle on an annual basis. There is no monitoring system on telephone wagers being placed from out-of-State.

TESTIMONY OF:

- Fred Herman, General Manager, Western Regional Off-Track Betting Corporation
- John Gannon, General Counsel, Western Regional Off-Track Betting Corporation

MAY 6, 1975

The Western Regional Off-Track Betting Corporation (WROTB) is a public benefit corporation that has been in operation since 1973. WROTB represents 11 counties and two cities. It has three roles: to aid the racing industry, to provide additional funds for local governments, and to diminish the role of the illegal bookmaker. Fifty percent of the corporation's net profit goes back to the counties in proportion to the population each county represents in the region. Large counties, rural counties, towns, villages, cities, and hamlets are represented. During the first quarter of 1975, the corporation paid \$430,200 in taxes.

WROTB has had an impact on illegal bookmaking. The chief of police of Buffalo has stated that: "Since the introduction of off-track legal gambling in the Buffalo area, there has been a definite decrease in the visibility and activity of pick-up street gamblers... many (police) man-hours spent on surveillance and observation of these street hand bookies or curbstome bookies are no longer required."

Since the corporation's formation attendance and handle at various tracks in the region have increased.

The corporation has been overwhelmingly accepted by the public. Each of its meetings is open to the public and the press. This has helped generate publicity for the corporation and also has helped keep it accountable for its actions.

WROTB opposes the uniform takeout and distribution of revenues within the States. Track location and the type of racing conducted should have an impact on the takeout system. It is illogical to pay tracks when there is no racing at those tracks. It is also illogical to pay a portion of the State's surtax to a county with a race track when that county does not participate in OTB.

The 5 percent surcharge on OTB winnings has hurt WROTB substantially, perhaps by as much as 10 percent or more. Illegal bookmakers do not pay the surcharge, and WROTB bettors resent being taxed upstate for the benefit of New York City. WROTB is seeking a repeal of the surcharge through the courts and the State legislature. WROTB is certain that it could compete more effectively with illegal bookmakers without the 5 percent surcharge.

Topics covered during questioning by Commission members included the following:

1. Advertising. WROTB advertising is geared to encouraging people to bet "the right way, the best way, and the legal way." It is also geared to attracting new customers who have never bet with illegal bookmakers.

2. Location of betting parlors. Prior to establishing a betting parlor, the corporation confers with local representatives of the town or village. Attempts are always made to set up parlors in deteriorated stores and other locations that can be rebuilt.

3. Use of OTB by illegal bookmakers. WROTB does not yet have the type of sophisticated investigatory capability needed to detect the use of OTB by illegal bookmakers as a layoff center.

JOINT TESTIMONY OF:

- Paul R. Screvane, President and Chairman of the Board, New York City Off-Track Betting Corporation; and
 - Michael Shagan, President, National Association of Off-Track Betting
- MAY 6, 1975

Statement of Paul R. Screvane

(Mr. Screvane was chosen President and Chief Executive Officer of the New York City Off-Track Betting Corporation (NYCOTB) in March 1974. He became Chairman of the Board of Directors on August 1, 1974. NYCOTB began its operations with two branch offices and a telephone betting center in April 1971.)

As of May 1975, there are 141 OTB branches. Sites for OTB offices are chosen only after consultation with various communities.

All wagers accepted by NYCOTB on New York State races are transmitted to the track and into the track parimutuel systems, resulting in a single parimutuel pool and a single payout price (which is subject off-track to a 5 percent surcharge). Federal law does not permit NYCOTB to follow this procedure when accepting wagers on out-of-State races; thus, NYCOTB calculates its own parimutuel pools for money wagered on races outside the State.

Advertising is used to explain OTB to the public; to remove any moral taint from horseracing; and to make OTB more competitive with organized crime. Televised racing has had a stimulating effect on NYCOTB's handle.

In 1974, the cost of generating \$1 in government revenue from the New York Racing Association (NYRA), the thoroughbred tracks with which NYCOTB takes bets, was 81.1 cents. The cost of generating \$1 in government revenue from NYCOTB was 76.7 cents. New York OTB would appear to be the more efficient producer of government revenue. One "expense" in this calculation is OTB's contribution to the racing industry of \$30 million in 1974.

A statement by the Commissioner of the New York City Police Department, Michael J. Codd, issued at Mr. Screvane's request, estimated that the illegal handle within New York City was more than \$4 billion in 1973. Illegal wagering on horseraces was estimated to be no more than 10 percent of the total illegal handle. The small bettor is likely to go to OTB, therefore making NYCOTB competitive with the small bookmaker. Large-scale organized bookmaking is largely unaffected, because team sports betting is illegal and because of the tax laws.

Due to many variables, it is impossible to calculate the effect OTB has had upon the racing industry's on-track handle and attendance. But OTB's contributions of \$13.4 million to NYRA and harness tracks in calendar year 1974 made the difference between certain net gains and a substantial net loss.

Job security agreements were made by NYCOTB with various on-track unions. Payments or alternative job assignments were guaranteed in case NYCOTB operations caused on-track layoffs.

NYCOTB promotes public interest in racing by various means, including sponsoring specially televised shows. In this way, new interest is generated in racing at the track as well as at OTB offices.

The racing industry was not sufficiently consulted concerning OTB enabling legislation. The industry was in turn uncooperative during OTB's first years of operation. This unfortunate situation should be avoided in other States.

A marketing study developed a profile of the average OTB patron in New York: This customer earns \$12,300 a year; is a high school graduate; 42 years of age; male; white; often Irish, Italian, or Catholic; and a blue-collar worker. He is not a compulsive gambler. Ninety percent of OTB customers also bet at the track.

Bettors at OTB appear to lose more money than on-track bettors. On-track bettors may be more sophisticated handicappers, and they have the track tote board giving up-to-the-minute information, including the latest odds.

In addition to providing revenue, OTB offers employment to minority groups and to the disadvantaged (e.g., exaddicts). It buys its supplies and materials from local industries, thus helping the local economy.

NYCOTB has turned the public's propensity to gamble to a constructive social purpose, and has shown that a quasigovernmental agency can successfully operate a complex gambling game.

Statement of Michael Shagan

The National Association of Off-Track Betting (NAOTB) began in 1973 as a nonprofit trade organization to report on how well an OTB operation was doing its job and to disseminate the latest OTB technology to those jurisdictions considering OTB. NAOTB also was to evaluate the role of the media in the expansion of legalized gambling, the ethical standards for OTB and its vendors and consultants, the baseline questions any new OTB operation must consider (including guidelines for questioning vendors

of wagering systems), interstate problems, the funding by OTB of experimental techniques in the fight against organized crime, and the effect on legalized OTB of police enforcement or nonenforcement of anti-gambling statutes.

The Federal Communications Commission was perhaps unfair in ruling against certain televised OTB advertising and horseracing programing, considering the Justice Department's conclusion that only 11 percent of illegal gambling is on horseracing and 64 percent is on team sports betting (with no similar limitations applied by the FCC).

The statute that prohibits the interstate transmission of wagering information (18 U.S.C. 1084) has a direct effect on off-track betting. It prohibits tracks located in different States from combining wagers into a single parimutuel pool. The law should be changed to permit the combining of separate pools into a single pool. The law might also be changed to allow the bettor in one State to place a bet in another State as long as off-track betting is legal in both of the States involved.

OTB security problems can be more difficult than on-track security problems, since, as in the case of New York, there are 140 separate places of business that have to be monitored. The problem will be compounded when OTB expands into other States. A mechanism is needed to coordinate the exchange of interjurisdictional data.

The Federal tax on gambling winnings should be repealed so that legal gambling will become more competitive with illegal gambling. In the meantime, on the Federal income tax form, "gambling winnings" should be separated from the general "other income" category. That way the revenues actually made from gambling taxation could be correctly determined.

Legalizing gambling is an accommodation of the general propensity to bet. The device of a Public Benefit Corporation lends itself well to implementing and controlling this kind of activity.

Questioning by Commission Members

(Mr. Screvane and Mr. Shagan both participated in the questioning by Commission members and staff.)

Topics covered during questioning included the following:

1. Distribution of takeout. The tracks' share of distribution from the OTB takeout appears adequate. Racing realizes that OTB is here to stay, and that both will have to work together. New York State has the finest racing in the country, and much of that is attributable to the contributions of OTB. New York can serve as a model for other areas considering OTB.

2. Foreign OTB systems. The French system of OTB, although one of the most successful foreign endeavors for racing and for revenues, is not a full win-place-show-special bets operation. It is run mostly on a franchise system, with most of the bets placed informally at coffeehouses. The Australian system includes the best of the English experience and utilizes computers and branch OTB offices, a system more applicable to the situation in New York.

3. Televising of races. When televising races, negotiations are made by NYCOTB with the tracks whose races are being televised, based upon the handle. According to New York State law, the out-of-State tracks could receive as much as a 3.5 percent takeout from NYCOTB.

4. NYCOTB and the Kentucky Derby. In 1975, NYCOTB handled more than \$3.6 million on the Kentucky Derby. The New York handle was larger than the Churchill Downs handle. Churchill Downs refused to deal with OTB; thus no remuneration was made to the track (it was given to New York thoroughbred racing). According to NYCOTB proponents, the Kentucky Derby is "in the public domain" and thus can be handled with or without track consent.

5. Out-of-State racing. By law, NYCOTB is restricted to five races a year on harness racing and to five on thoroughbred racing outside the State of New York, except when there is no comparable racing being run in New York. NYCOTB hopes to extend this limit to 15 races, thoroughbred or harness. NYCOTB has given millions of dollars to the out-of-State racing industry for handling their races.

Even if there were year-round racing in New York State, NYCOTB would still wish to have the option of handling racing in other parts of the United States, on those days when the unpredictability of New York weather closes tracks in New York State.

6. Credit betting. Credit betting could ruin OTB. Telephone betting should remain on a predeposit basis; that is, with bettors required to deposit money in an OTB account before making any bets.

7. Surcharge on winnings. The 5 percent surcharge on OTB winnings has made it virtually impossible for the big bettor to remain with OTB.

8. Layoff bets. Since bookmakers lay off bets with other bookmakers in other parts of the country, they do not need OTB.

9. NYCOTB expansion. NYCOTB intends to expand its facilities by adding 20 to 30 offices in the next fiscal year. Sports events betting will be developed by the corporation within 3 years, assuming the passage of a State constitutional amendment.

TESTIMONY OF:

- Easa Easa, President, Nassau Downs Off-Track Betting Corporation
- James Nagourney, Vice President, Nassau Downs Off-Track Betting Corporation

MAY 6, 1975

The Nassau Downs Off-Track Betting Corporation represents only Nassau County. It was felt that a county with a population in excess of 1 million was large enough to support a single-county OTB system.

Nassau's first OTB office opened in Hempstead in January 1975. Before branch offices are opened the corporation consults with community leaders regarding various aspects of the OTB operation. Eventually, the corporation hopes to have 20 offices operating.

The corporation supports the system of uniform takeout at the track and OTB. It feels that the existing system of revenue distribution is equitable.

It is difficult to measure the true impact of the 5 percent surcharge on winnings. Prior to its opening, the corporation estimated that it would lose 20 percent to 30 percent of its handle as a result of the surcharge, but it appears that the actual amount lost is considerably less.

The corporation has conducted a professional in-depth survey of 1,200 Nassau County residents to determine the views of county residents toward OTB. The profile of the average bettor developed by the survey is as follows: Male, between the ages of 21 and 49, married, Catholic, white, college educated, and with an income that approximates the average income in the bettor's community. Sixty-one percent of those interviewed favored the legalization of gambling in Nassau County.

Topics covered in questioning by Commission members included the following:

1. Track attendance. The three tracks located in or near Nassau County are Roosevelt Raceway, Belmont, and Aqueduct. No decline in attendance at these tracks has been attributed to Nassau OTB.

2. Surcharge on winnings. The 5 percent surcharge results in revenue being returned to Nassau County. Nassau is the only OTB organization that is concerned with revenue strictly for the county.

3. Out-of-State races. When Nassau bets on races outside the State, New York City Off-Track Betting (NYCOTB) manages the negotiations for Nassau. The payments are calculated by Nassau's own accounting system, and NYCOTB supplies information only. In out-of-State races, the OTB parimutuel pool is separate from the track pool. Nassau's own accounting system also computes the amount paid to the out-of-State tracks.

TESTIMONY OF:

- Paul Silvergleid, Chairman, Connecticut Commission on Special Revenue

MAY 6, 1975

The Connecticut Commission on Special Revenue was formed in October 1971 and delegated the following responsibilities: (1) To implement and operate a State lottery; (2) To implement and operate off-track betting; and (3) To license and supervise in-state parimutuel activities, namely horseracing, dogracing, and jai alai. From the outset, the commission has adhered to the principle that on-track wagering and off-track wagering are one and the same, that they come from the same market, and that the success or failure of one or the other bears a direct relationship to the total program.

For a number of reasons, racetracks may never be built in Connecticut. Instead, the State plans to initiate a "teletrack" concept which involves the closed-circuit broadcasting of New York State races to specially constructed theaters in Connecticut. The teletracks will hold two racing programs daily: Flat racing during the day and harness racing at night. American Totalisator will build the computerized parimutuel wagering at the teletracks. The system will also include branch offices, similar to what presently exists in New York, and telephone betting. All facilities will be operated by Connecticut through the Commission on Special Revenue. Connecticut has negotiated contracts with the New York Racing Association, Yonkers Raceway, and Roosevelt Raceway. Connecticut will pay these racetracks 2 percent of straight betting and 4 percent of exotic betting for the first 2 years of operation; and 3 percent and 5 percent, respectively, during the final 3 years of the 5-year contract. The expected opening date for branches is spring of 1976; \$80 million is expected to be the gross handle by the end of the first year. At the end of 5 years, five to seven teletracks, 30 branches, and a telephone betting system are expected to be in operation.

A racetrack licensed to be built near Waterbury still has not obtained all the necessary permits to begin construction. If this track is built, the OTB system will use racing programs from the Connecticut racetrack when it is operating.

Topics covered during questioning by Commission members included the following:

1. Interstate wagering. Interstate wagering is a matter to be resolved by the State and the tracks involved. Connecticut would support Federal legislation that would prohibit the unauthorized use of

out-of-State races by OTB operations. But it would oppose legislation that prevented States from developing interstate broadcasting agreements.

2. Teletracks. Communities participating in the teletrack program will receive one quarter of 1 percent of the handle and the right to impose a tax on admissions. Fourteen communities have already accepted OTB.

3. Illegal betting. One of the goals of the teletrack will be to reduce illegal wagering.

4. Projected income from OTB. The projected gross handle for Connecticut is \$300 million after 5 years. New York tracks should receive \$12 million at that point. Connecticut did not negotiate with the State of New York, but with private corporations and the New York Racing Association, a quasi-public agency. However, all agreements were approved by the New York State Racing and Wagering Board.

TESTIMONY OF:

• Brian Sweeney, General Manager, California Thoroughbred Breeders Association

MAY 6, 1975

OTB is inevitable in every racing State, but it should not be allowed in nonracing States. State, county, and city governments should not become actively involved in OTB operations. The racing industry should operate off-track betting. The industry should be a consortium of racing association representatives, horsemen, and the State racing commission. To bring in a fourth operating partner--e.g., the city government as was done in New York--dilutes the revenue sharing, and more importantly, creates additional management problems.

The most important problem that the racing industry and the State government face is the possibility of interstate off-track betting. Interstate off-track betting may not affect a State such as California, which is like a country of its own. California's racing revenues would not be adversely affected if adjoining States bet on California races. But horseracing in many areas, particularly in the East, would be in danger of being completely eliminated by interstate off-track betting. A continuing reduction of racing dates and places to race would cause tremendous losses for the owners and breeders who are absorbing the major expenses and losses being experienced by the industry at present. If the Federal Government has a role in off-track betting, it should be to make sure that there is no interstate betting. This would require Federal legislation to accomplish.

The best North American study on the feasibility of off-track betting was made by a group appointed by the government of the Province of Ontario, Canada. If implemented as recommended, Ontario would have an effective off-track betting system that would create government revenues and returns for racing associations and horsemen that would make Ontario one of the biggest racing circuits anywhere. Because of Ontario's proximity to the eastern racing States, this major Canadian circuit would dilute business and available top racing stock in the United States.

In Ontario, a quasi-legal form of OTB has existed since 1969, when messenger betting parlors began to flourish. Police estimated that \$25 million to \$30 million was placed through these offices each year. Attendance at Ontario Jockey Club tracks remained fairly stable from 1968 to 1974. The tracks experienced a 16 percent increase in handle in 1973 and 1974, after the phasing out of messenger betting.

The Ontario government completed its two-volume study on off-track betting 2 years ago. Projections based on the study's proposed OTB program indicate that racetrack handle will double in that Province within 3 years after OTB is implemented. Many of the best horses will probably be shipped in from New York, lowering both the quality of racing there and revenues to the New York racing industry and to New York OTB.

The State's government's role in OTB should be the same as it is for on-track betting. Racing associations should run race meetings and parimutuel wagering. OTB operations should be an extension of on-track betting, and should be run by the racing industry. All off-track betting handle should go into the on-track pool, and after the overhead cost of operation is taken care of, the profits should be divided among the racing associations, the horsemen, and the State, on a pro rated basis as is done at present.

Topics covered during questioning by Commission members included the following:

1. Operation of OTB. The government should not be allowed to compete with the racing industry by setting up separate OTB operations, which could eventually destroy racing.

2. California OTB. California tracks were approached by OTB 4 years ago and they turned it down. There presently is no proposed legislation in California that would allow off-track betting.

3. Ontario OTB. The Ontario study of off-track betting generally supports the racing industry, and the racing industry supports the study. But there is some question as to whether all of the study recommendations will be implemented.

TESTIMONY OF:

• Alan Hirsch, Patron

MAY 6, 1975

The exorbitant tax structure at OTB precludes any intelligent person from wagering at OTB. Racing can be a thrilling sport, if there is a fair chance for the fan to come out even, or win or lose a little. But that is not the way racing operates today. Excessive taxation at the track and at OTB are driving racing fans away.

The concept of OTB as it was originally established is sound. It provided employment, revenues to the State, and enjoyment for many. But now additional tremendous odds face the OTB bettor and there is no longer parity between on-track and OTB betting.

OTB operates in a deceptive manner in regard to its disclosure policies. It does not spell out the percentage of the bettor's actual winnings that is lost through OTB betting. The so-called 5 percent surtax on OTB winnings can actually amount to as much as 50 percent of an OTB bettor's actual winnings. This can no longer be called entertainment, nor is it a reasonable way to provide income to the city.

OTB advertisements do not offer any meaningful explanation of the surtax. The cents-off chart that is posted in OTB shops does not reflect the true character of the surtax. OTB fails to mention that it is taxing the winning bettor's winnings plus his original wager.

OTB should be prohibited from referring to a 5 percent surtax. It should honestly report it as a triple tax involving one's original wager and winnings, plus breakage. It should admit that up to 50 percent of actual winnings can be taken.

The OTB bettor actually faces five taxes. They are: the 17 percent tax on the original wager, the average 1 percent breakage on the original wager, the OTB 5 percent tax on the original wager of the winning bettor, the OTB 5 percent tax on the actual winnings of the winning bettor, and the double breakage tax.

No straight bettor can bet with OTB. OTB will be, or has been, reduced to a glamorized numbers game. For the exacta and the daily double bettor the takeout will not be too stringent. OTB, as currently structured, is taboo for anyone but the gimmick bettor.

States should consider reducing their take from the tracks so that total takeout can be somewhere between 10 and 14 percent. New York should immediately reduce all track tax to 13 percent while the matter

is studied. This would immediately improve slightly the OTB situation, while time is taken to repeal the surtax. OTB could play a positive role in the city's economy, but not as it is presently constituted.

Topics covered during questioning by Commission members included the following:

1. On-track versus OTB takeout. On-track and OTB takeout should be the same. OTB currently is prejudiced against bettors who cannot afford to go to the track.

2. OTB self-regulation. OTB should be mature and responsible enough to regulate itself. If it will not regulate itself, someone else will have to do it. The 5 percent surtax is undemocratic and will eventually be repealed.

3. Educating the public. The average person does not understand how the OTB system works.

4. OTB advertising. Truth in advertising principles should be applied to OTB. The consumer needs to be protected.

TESTIMONY OF:

• Louis Theodore, Patron

MAY 6, 1975

Competition, rather than cooperation, should be stressed in the racing industry. Cooperation causes monopolies to develop, as in the case of New York racing. Harness racing is licensed during the evening in New York, and the New York Racing Association runs thoroughbred racing during the day. This amounts to a monopoly; there is only one "wheel" in town at a given time. Roosevelt and Yonkers raceways should run concurrently. Dogracing, quarter horse racing, and jai alai should be permitted in New York as well. As with most other businesses, competition serves the public interest; monopolies do not.

Also in the public interest, uncashed tickets should be put into a general fund to support a better organization and to improve track and betting facilities, or should be added to certain parimutuel pools. The money should not be returned to the State, local, or Federal governments or to the racing industry.

There is no reason why a bettor should pay a disproportionate amount in taxes to any State or city government. The present parimutuel tax should be substantially reduced or eliminated. The 5 percent surcharge on winning OTB bets should be eliminated.

The majority of bettors are not concerned with the quality of horses in races or with the class of competition; they are concerned with the competition of the race itself. Ten competitive \$1,000 claimers in a race is better than a race with Secretariat at 1-9 odds in a four-horse field. The concept of "improvement of the breed" has been set forth by a select few in the racing industry for their own aggrandizement.

There is a demonstrated need for Federal control of parimutuel racing. Uniform rules and taxes should be imposed. Control by the States has created havoc in certain areas.

Topics covered during questioning by Commission members included the following:

1. Bettor organization. The National Gambling Commission and/or the Federal Government should assist in the formation of an organization to represent bettors and racing attendants in order to eliminate some of the inequities that presently exist.

2. Investigation of racing. The National Gambling Commission should recommend that an investigation be conducted of the racing industry. The investigation should focus primarily on the reasons for the lack of competition in the industry.

TESTIMONY OF:

- Joseph F. Joyce, Vice President, Madison Square Garden Corporation and Chairman of the Board, Arlington Park and Washington Park Race Tracks Corporations

MAY 7, 1975

An average successful racetrack in a large urban area realizes the rather poor return on its investment of between 1 percent and 3 percent. The unit of production is still the \$2 bet, which unfortunately has not changed since 1926. All other costs have gone up as much as four or five times in this 40-year period. Nevertheless, racing is a structurally sound business and the largest cash business in the world. It is also the most highly taxed business in the world.

Purses are the key to the health of the racing industry: High purses attract good horses, inducing people to bet large sums of money, which results in still higher purses. OTB has helped the New York purses become the highest in their history. It has also helped produce revenue for government. If OTB revenue can be used to limit, or reduce taxation on, costs, leaving more money for the racetrack operators and the horses, it will have made a significant contribution to racing. The racing industry is entitled to a fair share of OTB revenue.

The 5 percent surcharge on OTB winnings was aimed at increasing track handle and attendance, but there is no evidence that it has done either at Roosevelt Raceway. The customer is the one ultimately hurt by the surcharge.

Interstate OTB should be permitted. New York City bets taken on tracks for out-of-State do not produce a decline in handle and attendance at those tracks. Harness tracks in New York are also compensated in a sense, since out-of-State racing bets are placed only on thoroughbred tracks. Two conditions, however, must be met for interstate betting: (1) The out-of-State betting agency must compensate the State in which the races are run, and (2) in-State tracks must be compensated for any possible loss of revenue.

New York City OTB is being adequately administered at present, but other States wishing to introduce OTB should use existing race-track management or existing racetracks to run the OTB corporation. OTB operations should start up in large urban areas for maximum initial success.

The leisure dollar cannot be stretched indefinitely. Unrestricted competition for this dollar would only result in the erosion of all forms of parimutuel wagering.

Topics covered during questioning by Commission members included the following:

1. Federal involvement. Off-track betting and interstate or intrastate betting should not be a Federal issue. In some locations, it might be a regional issue, but in most instances it is a State issue.

2. Track OTB share. An adequate track share of off-track betting would vary from State to State. In New York State, a 4 percent share of the regular wagers would be a fair compensation to the tracks.

TESTIMONY OF:

- John H. Krumpe, Executive Director, New Jersey Sports and Exposition Authority, former President of the New York Racing Association (NYRA)

MAY 7, 1975

The revenue projections that OTB made in 1970 were far too optimistic. Revenues to the racing industry proved to be inadequate, and OTB's understanding of the industry was naive. The National Gambling Commission is urged to obtain copies of the debate in the New York State Legislature in 1970 that illustrates this point.

NYRA and the New York City Off-Track Betting Corporation (NYCOTB) contracted to accept wagers on races run at NYRA tracks in June 1971. Problems included technology, labor relations, inadequate income to the tracks, no revenue to the horsemen, and the substantially high cost of a racing association to implement OTB. 1972 was the worst year in all of NYRA's 18 years of existence in terms of revenue. NYRA introduced new marketing techniques to try to offset its losses.

The Meadowlands track under construction in New Jersey plans to allow mutuel operations to commence well in advance of a race in the hope that this will produce some additional sales, although it is not expected to produce a large amount of revenue.

Three factors that would increase revenues are Sunday racing, night racing, and off-track wagering. Concerning the last, OTB should be operated in a limited, restricted manner that would benefit the racing industry and the patron; it should not be operated the way it is today. Ample revenues must be distributed to the track and to the horsemen no matter where the wager is placed. The 5 percent surcharge on OTB winnings only reduces growth potential and does not permit the reinvestment of any revenue in the racing industry. Limits on interstate OTB wagering would not be needed on the Federal level if OTB were implemented properly.

Racing dates--particularly in the Northeastern United States, where numerous racing facilities saturate the market--should be set up by regional organizations in order to avoid the racing conflict problems that plague the industry today.

Topics covered during questioning by Commission members included the following:

1. Jockey Club study. A recent study sponsored by the New York Jockey Club painted a dismal picture of the future of racing. This report perhaps was too pessimistic. Adoption of a regional approach to solving the industry's problems should help avert the catastrophes predicted by the Jockey Club report. The Federal Government should not interfere with the racing industry unless the regional approach fails.

2. Tax exemptions. The New York Racing Authority should operate on a tax-exempt status. NYRA does not have the ability to raise capital for major improvements, and the one who suffers the most for it is the racing patron.

3. Industry restructuring. If one were to reconstruct the racing industry to achieve the best operating arrangement, the interests of the patron would have to be considered first, then the interests of the horsemen, and, finally, the interests of the government. Additionally, the takeout would be limited to 10 percent, with 5 percent going to the State and 5 percent to the racetracks.

TESTIMONY OF:

- George Levy, President, Roosevelt Raceway
- Harvey Fosner, Vice President and Counsel, Roosevelt Raceway

MAY 7, 1975

Roosevelt Raceway is a harness track that began operating in 1940. It had numerous startup problems but finally managed to become profitable. Various proposals were made to introduce off-track betting as early as 20 years before it was finally legislated in 1970. But New York Governors always opposed it on the grounds that it would injure or destroy racing. Roosevelt Raceway also opposed OTB and fought it unsuccessfully in the courts. When OTB legislation was passed, the tracks were promised 100 percent compensation for any loss in handle and 90 percent compensation for losses in attendance and admission caused by the existence of OTB. But when losses did in fact occur, the tracks were unable to prove that they were caused by OTB rather than adverse economic conditions or poor weather. Thus, the tracks received no compensation.

Between 1970 and 1974, Roosevelt Raceway lost 3,500 customers, and growth at this time is inconceivable. Roosevelt is taxed more heavily than any other flat track or any harness track in the United States. In addition, flat tracks receive more of the takeout than harness tracks, although both types of tracks provide essentially the same services. This arrangement is illogical and unfair.

Everywhere else in the world, OTB was originally designed to help the tracks, but not in New York. Thus it was inevitable that the decline in track attendance and wagering at the metropolitan New York racetracks became immediately apparent soon after OTB began. However, the racing industry recognizes that OTB is here to stay and believes that if OTB paid racetracks an equitable amount of money, it would make up for track losses and possibly even allow the tracks to profit.

The 5 percent surcharge on OTB winnings benefits the counties and municipalities where tracks are located. When the surcharge was imposed, it was thought that it might encourage more bettors to return to the track, but there is no evidence that this has occurred. The surtax has had little effect on exotic wagering but has discouraged big bettors from betting with OTB on straight win-place-show bets.

One way to improve the situation in racing would be to eliminate the Federal tax on gambling winnings. Another would be to license and tax bookmakers and to impose a withholding tax on winning bets.

Topics covered during questioning by Commission members included the following:

1. Racetrack facilities. Roosevelt Raceway is proud of its racetrack facilities and spends hundreds of thousands of dollars each year in maintenance. Program and parking fees have had to be raised due to rising costs and inflation.

2. OTB payments to tracks. OTB should pay eligible tracks at least 4 percent on regular bets (win-place-show) and 7 percent on exotic bets.

TESTIMONY OF:

- Thomas J. FitzGerald, President, The New York Racing Association, Inc.
- O. Carlisle McCandless, Counsel, Cahill Gordon & Reindel

MAY 7, 1975

The New York Racing Association (NYRA) operates thoroughbred racetracks located in New York State at Aqueduct, Belmont Park, and Saratoga. NYRA is incorporated under the racing laws of New York as a "nonprofit" racing association, but it is not a charitable corporation and is not exempt from Federal income taxes. More accurately, it is a non-dividend-paying corporation. Its outstanding stock is owned at all times by its directors (called trustees).

NYRA exists to cover its necessary expenses, maintain its racing facilities, make needed track improvements, and provide high quality racing programs. Maximum contributions are made to the revenues of the State of New York consistent with NYRA's obligations to its employees and the horsemen who race at the tracks.

From 1955 to 1970, the annual revenue from thoroughbred racing increased, annual attendance increased, and purses paid to horsemen increased.

Since the New York City Off-Track Betting Corporation (NYCOTB) began to take bets on NYRA races in 1971, the trend in handle and attendance has been downward, even with a lengthened racing season. The low point in handle occurred in 1972, and there has been nominal "recovery" since that time. Much of the decline in attendance and handle is a consequence of OTB. The lower handle in turn has reduced New York State's revenue from racing. Although NYRA's financial problems have been aggravated by OTB, it is attempting to work with OTB to improve the situation in terms of producing maximum public revenue and at the same time protecting the interests of the thoroughbred racing industry and the public.

In 1974, off-track bets on NYRA races totaled almost 56 percent of the amount wagered on-track and 36.5 percent of the combined wagering on- and off-track. NYRA received as its share of the combined on- and off-track handle, including payments from OTB, somewhat less than 3.6 percent of the total handle. The horsemen received as their share, paid in the form of purses, about 2.7 percent of the total handle. In the fiscal year ending December 1974, NYRA paid more direct taxes to State and local governments than did NYCOTB.

NYRA believes that off-track betting across State lines raises serious questions primarily because a track in one State has no way of protecting itself against OTB in another State. An OTB corporation should not attempt to profit from the racing program offered by a track in

another State without that track's consent, and unless adequate compensation is paid to the track and its horsemen. In taking bets on out-of-State races, an OTB corporation should consider the impact on local tracks.

The 5 percent surcharge on OTB winnings decreases the OTB handle. And since NYRA's revenue from OTB is a direct function of the OTB handle, its revenue from OTB must also decrease. Whether the benefit to the public from the surcharge outweighs the loss to racing is something that needs to be studied.

(Note: Since questioning by Commission members was interspersed throughout the statement by Mr. Fitzgerald, the above material summarizes both the statement and questioning.)

TESTIMONY OF:

● Joseph E. Cresci, President, Ogden Recreation, Inc.
MAY 7, 1975

Off-track betting is a complex industry that is feasible in some areas of the country but not in others. OTB works best in heavily populated areas. Localities contemplating OTB should take into consideration the need to protect existing tracks.

Areas that do not have a significant "market penetration" with on-track wagering services can use OTB as a fast and efficient means of expanding the volume of betting. But the design of any OTB system must take market considerations into account. The entry of a State into OTB should be based upon a completely businesslike feasibility analysis and should include input from experienced racing operators as well as consultants and analysts.

Additional research needs to be done in all areas of the country concerning the wagering industry and the potentials of OTB. New York plunged into OTB at phenomenal costs to the city and State as well as to the industry. Racing survived, but it might not be so fortunate in other areas. OTB as it is now practiced in New York is not conducive to the growth of racing in that State. OTB and racing should be working together.

The rights of the racing industry must be considered in out-of-State OTB. Out-of-State OTB should be permitted in States that have no racing of their own. Connecticut is one example. The racing industry in a State with small tracks will suffer if that State begins to accept out-of-State wagers from States have have higher quality racing.

Topics covered during questioning by Commission members included the following:

1. Federal vs. State control. Racing problems should be handled by the State government because it is more responsive to local situations. Regionalization is also feasible.
2. Massachusetts OTB. OTB is feasible in Massachusetts not merely for producing revenue for the State but for aiding the ailing racing industry as well.

TESTIMONY OF:

• Duane Burke, Director, Public Gaming Research Institute, Inc.
MAY 7, 1975

Nine countries other than the United States presently have off-track betting facilities: Australia, New Zealand, Japan, India, South Africa, Italy, France, Great Britain, and Ireland, as well as the Commonwealth of Puerto Rico. These operations were designed specifically to revive the ailing racing industry, and were done as a cooperative effort between government and racing. OTB is also considered essential to racing and is an important source of government revenue in these countries. In most of these countries, between a third and two-thirds of the total amount bet on horseracing is bet at legal OTB parlors. These countries also find that OTB has had an adverse effect upon illegal bookmaking. This seems to have occurred most notably in Australia, New Zealand, and South Africa.

OTB structures vary from country to country. Successful OTB is operated by a single nonprofit organization in which the government actively participates. No noticeable negative social effects have been attributed to OTB. Most countries prohibit the advertising of OTB, but do allow racing advertising privileges.

OTB distributes a percentage of the amount of money bet to the government, to the track offering the race, and to the central organization which operates OTB. The remainder, usually the major share, goes back to the winning bettor, and, in general, the split for OTB is different from that for bets placed at the racetrack.

Some countries use a portion of their OTB revenue to subsidize the operation of small tracks so that localities that want racing can have it. In other countries, OTB's main goal is to improve the racing industry and not to increase government revenues.

Topics covered during questioning by Commission members included the following:

1. Federal role. There should be no Federal role in racing until a definite need is demonstrated.

2. New York OTB. New York OTB is improving its relationship with the racing industry. OTB realizes that the two factions must cooperate for their mutual benefit.

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TESTIMONY OF:

- George Rayborn, Executive Director, Pennsylvania Crime Commission
- Sanford Neiman, Attorney, Pennsylvania Crime Commission
- David Breen, Director of Field Operations, Pennsylvania Crime Commission

MAY 28, 1975

The Pennsylvania Crime Commission, established in 1968, has conducted several investigations involving gambling and the ability of the criminal justice system in Pennsylvania to cope with this type of activity.

In 1970, a Commission investigation in the Johnstown, Pa., area revealed that a number of well-organized gambling enterprises were in operation. Commission hearings disclosed a pattern of systematic payment of monies for official protection of these operations.

In 1973, the Commission completed investigations in Carbondale and Phoenixville, Pa. In Carbondale, illegal gambling on a moderate scale operated openly, while in Phoenixville there was official tolerance of widespread gambling. The Commission discovered that police officials were apathetic toward gambling and that the Phoenixville police chief and mayor received protection payments from gamblers.

In 1974, the Commission published the results of an 18-month investigation into corruption in the police department of Philadelphia. During the investigation, Commission agents found open and flagrant gambling in every area of the city. A study of 1972 arrest data showed that arrests for gambling in Philadelphia normally resulted in discharge regardless of the gambler's position within the organization. As a result of this investigation, a special prosecutor was appointed to deal with police corruption.

In November 1974, the Commission published its 23-month study of patterns of sentencing in gambling cases in Allegheny County. This study showed that the vast majority of persons who were convicted of gambling offenses were never sentenced to jail. The Judicial process seemed a mere administrative burden to illegal gambling operations.

As a result of the investigations mentioned, and the Allegheny County Study, the Crime Commission concluded that because of the cost of enforcing the gambling laws, in terms of corruption and the waste of limited law enforcement resources, gambling could be more effectively dealt with through means other than the criminal laws.

State governments must decide whether they should react to the present state of the gambling laws with tighter criminal prohibitions and law enforcement procedures, in which case wiretapping laws might be

considered a necessary element, or shift to control through civil regulations. It is essential that one of these two positions be adopted.

TESTIMONY OF:

• George Schwartz, President, Philadelphia City Council
MAY 28, 1975

Across-the-board legalization of gambling should be effected. In addition, gambling operations should be conducted by the Federal Government; winnings should be tax-free; and proceeds should go to educational programs or to senior citizens rather than into the Treasury.

Through an investigation by the Philadelphia City Council, it was discovered that there is an inordinate cost to the city by the "jam-up" of the court system by numbers cases. Usually, the numbers writer is arrested, goes through the regular system of arrest and trial, and is fined \$25 or \$50 or is discharged, causing a delay in the judicial process and preventing more serious crimes from being tried as quickly as they should. If gambling were legalized, this type of delay and sentencing would no longer exist; the penalties would be very heavy fines and imprisonment. Also, since the city of Philadelphia pays for all of the court cost in the criminal courts with the exception of the judges' salaries, the cost of criminal justice would decrease with the legalization of gambling.

Since the introduction of various legal games in Pennsylvania--i.e., harness racing, parimutuel, horseracing, and the lottery--the illegal operations have probably been inhibited to some degree. However, the numbers game still flourishes openly in Philadelphia. If numbers were legalized, those engaged in selling the numbers could be hired by the Commonwealth or by municipalities to do the same thing that they are doing now, but they would pay taxes on their earnings. An off-track-betting system--such as now exists in New York--or some similar system, should also be implemented in Pennsylvania.

If across-the-board legalization of gambling were approved in Pennsylvania, the legal games would have to be advertised in order to compete with and stop the illegal gambling activities.

TESTIMONY OF:

• James Barger, Commissioner, Pennsylvania State Police
MAY 28, 1975

The magnitude and degree of the gambling problem in Pennsylvania is manifested in statistics which indicate that 34.9 percent per 100,000 population of the citizens of Pennsylvania are involved in illegal gambling operations. It has long been recognized that money paid to protect gambling operations will alternately provide sanctuary for other, more vicious criminal acts. The social cost emanating from gambling is enormous.

The relationship of gambling to organized crime takes numerous forms, many of which can not be detailed in an evidentiary manner. The percentage of the total handle that is controlled by organized crime is extremely elusive because of the secretive and furtive manner in which this business is carried out. However, it is estimated that 53.2 percent of the gambling in the northeastern States is controlled by organized crime.

The apparent weakness in present gambling statutes from the law enforcement point of view is inadequate penalties. The attitude of the judiciary towards the gambling problem runs the gamut from total indifference to scrupulous attention to duty. The remedy is obvious-- appropriate and mandated jail sentences of sufficient length to prevent an immediate return to gambling activity, and the removal of a layer of insulation which will in turn bring the major offender within reach of the police. Those who place bets should be penalized as well as those who take them.

Resources committed to the gambling effort by law enforcement are adequate, considering the severity of the problem, the amount of resources available, and the impact on the resources of other, more critical problems. The police experience indicates that the legalization of gambling is no panacea for the control of gambling or the corruption that subsequently arises. When legalization occurs, the only thing that changes are the stakes. Human frailties being what they are, it is difficult to perceive that corruption arising out of gambling, legal or illegal, will ever be controlled without proper and decisive policing.

Considering the police prerogatives, the only recommendation to be made is to consider increasing the present penalties now imposed for violations of gambling statutes. While the present penalties may be adequate for first offenders, subsequent offenses of a similar nature would be more rigidly applied and increased substantially, especially in the area of imprisonment.

TESTIMONY OF:

• Walter M. Phillips, Jr., State Special Prosecutor for the City of Philadelphia
MAY 28, 1975

The investigations conducted by the Philadelphia Office of the Special Prosecutor during its one year of existence were in agreement with the findings of the Pennsylvania Crime Commission in that:

1. Illegal gambling is open and widespread in Philadelphia.
2. It is able to flourish because of illicit protection from members of the Philadelphia Police Department.

The most common form of illegal gambling in Philadelphia is numbers betting. The payoff rate of winning the full number bet in the city is 400-to-1, whereas in New York the payoff rate is 600-to-1. The difference is due to a greater amount of money being paid by the bankers for police protection. Gambling corruption, unlike isolated instances of payoffs by drug pushers, can involve entire units within the police department.

One cause of gambling-related police corruption is the general attitude, shared by the judiciary, that gambling is a victimless crime that provides harmless recreation for many individuals. In Philadelphia, the police know that most gambling arrests will be thrown out for one reason or another. This generates an attitude among police that rather than waste time arresting gamblers, it is better to "go along with the system" and at the same time realize some pecuniary benefit.

If the police department were to concentrate its efforts on going after the major figures of a gambling operation, successful enforcement would be unlikely because of Pennsylvania's "right to privacy law." This law forbids wiretapping of any form; a more recent amendment to the law bans any type of recording of another's voice unless the individual whose voice is being recorded consents to having it recorded. The entire "right to privacy law" is the strictest of its kind in the country.

In light of the courts' and society's attitude that illegal gambling is a victimless crime that should not be punished, and the unavailability in Pennsylvania of the necessary resources to investigate both gambling and the police corruption it generates, some form of legalized gambling should be given serious consideration. If any type of legalized gambling is considered in Pennsylvania, it should be run by the State government, as is the State lottery. It would be worthwhile for Pennsylvania to consider establishing something like New York's off-track betting corporation, which would generate a tremendous amount of revenue for the State.

TESTIMONY OF:

● Joseph R. Glancey, President Judge, Philadelphia Municipal Court
MAY 28, 1975

By insisting that organized crime is behind illegal gambling, the Federal Government is compelling local units of government to carry an inordinate burden by strict enforcement of antigambling laws. At the same time, the Federal Government is preventing local units of government from legalizing gambling by imposing a Federal tax on the winnings of bettors involved in legalized gambling.

The States should authorize local communities, by option, to permit off-track betting and lotteries. In addition, the States should license private individuals to be bookmakers, allowing them to deal with their customers on credit--by telephone, etc.--in order to be competitive with the existing bookmaking operations.

The State should agree that winnings would be free from State income taxation, since the State would receive its revenue from license fees on the gross amount bet. Also, the Federal Government should exclude the winnings of State-licensed bookmakers from Federal income taxation.

If additional legalized games were to be instituted in Pennsylvania, the sentencing policy of most judges would probably be much more severe for those who continued to be arrested for illegal gambling. Mandatory sentencing would have no impact on illegal gambling whatsoever, as evidenced by the 1974 gambling statistics from the Philadelphia municipal court: Of 3,000 gambling arrests, less than 250 persons were found guilty. Thus, if 90 percent of all gambling arrests result in findings of not guilty, sentences would not make a difference.

If gambling cannot be legalized, then it should be decriminalized by nonenforcement, which admittedly is no answer for a national policy.

TESTIMONY OF:

- F. Emmett Fitzpatrick, District Attorney of Philadelphia
 - Michael J. Byrne, Assistant District Attorney, Philadelphia
- MAY 28, 1975

The Philadelphia district attorney's office undertook a study of what took place in the Philadelphia court system concerning gambling cases for the years 1970 through 1973. Figures drawn from the annual report of the municipal court of Philadelphia indicate that .00153 of the gambling arrests disposed of in court resulted in a prison sentence. The district attorney's office concluded that the public and the judiciary in Philadelphia were not concerned with the prosecution of gambling cases, an assumption that remains valid today.

The district attorney decided to withdraw prosecution in as many of those gambling cases as possible, because of his belief that the discretion of the prosecutor not to prosecute should be based upon the conditions that exist in local communities. However, this discretion has been exercised largely by the district attorney's office independent of the police department; the police department continues to make its gambling arrests as it sees fit.

The office of the district attorney has found no connection between gambling and organized crime. There has been no evidence to justify any theory that gambling in Philadelphia is some form of "tentacle" of organized crime that is conducted by one or two people. In fact, the exact opposite has been found: Individuals appear to be operating independently or with a few people in the neighborhood.

It is unclear whether or not gambling should be legalized, but gambling probably ought to be removed from the criminal law field and controlled by some sort of regulative office. No determination has been made as to whether or not gambling should be State-operated.

TESTIMONY OF:

- John J. Finley, President, Eagle Downs Racing Association and
Managing Officer, Keystone Race Track

MAY 28, 1975

Because of the overlapping racing dates between Keystone Race Track in Pennsylvania and Garden State Race Track in New Jersey, there is direct competition between the two tracks. This competition has been damaging both to the track operators and to the States which derive substantial revenue from the tracks.

The States themselves, through their respective racing commissions, are the most competent authority to resolve their problems and will do so. Those commissions are expert not only in racing, but in the factors and conditions that exist in the areas with which both are concerned. A national governmental body, which must of necessity apply broad general standards, cannot effectively solve issues which are essentially local in nature. Therefore, any type of Federal circumvention or control should be opposed.

Off-track betting will probably not be introduced in Pennsylvania because off-track betting is not necessary there and would provide competition to the racing industry.

TESTIMONY OF:

• Mark Haller, Professor of History, Temple University
MAY 28, 1975

In this country, some types of gambling became syndicated in the decades after the Civil War. This occurred particularly in the areas of policy gambling--which was the forerunner of numbers--and in off-track bookmaking. Because of the need for financial backing and for a communications network, the normal structure of these gambling operations became a syndicate with financial backers and numerous neighborhood outlets.

Illegal gambling is a declining problem. The high point of the impact of gambling in American society came between the 1870's and 1905. This was the period when gambling syndicates exercised the greatest impact on local politics and law enforcement, and when perhaps the highest proportion of the population gambled illegally on a regular basis.

In examining the impact of gambling on the modern city, one needs to be aware of the history of the neighborhoods. In some neighborhoods gambling has a great deal of impact, as it did in the 19th century, because they still are 19th century neighborhoods in terms of economics and social structure. In other neighborhoods the impact has been very small because there has been a separation of gambling from neighborhood life. What changed many urban neighborhoods was the introduction of the automobile--or, more specifically, the impact of the automobile on the way in which residential neighborhoods were structured. The automobile separated residence from commercial activity and gambling.

One reason why some ethnic groups appear to be more involved in illegal gambling than others is that some groups have tended to remain or to move into the old 19th century neighborhoods that still have the social structure of the pre-automobile city. In many of these neighborhoods, there continues to be a close relationship between gambling, politics, and the economic life of the community.

An important factor about gambling in many neighborhoods is the degree to which it is accepted. Even if no money were being passed--i.e., for police and political protection--there would be little desire that the gambling laws be enforced. To a considerable extent the protection money institutionalizes a policy that many people would have wanted anyway. Money becomes, therefore, the institutionalization of neighborhood norms rather than the reason why the gambling laws are not enforced.

Given the current level of the problem of street crime in American cities, it is worth considering whether the gambling problem ought to be removed from the criminal justice system.

TESTIMONY OF:

• Richard Thornburgh, U.S. Attorney for Western Pennsylvania
MAY 29, 1975

(The testimony of Richard Thornburgh drew on his personal experiences as the chief Federal law enforcement officer in the 25 counties in the Western Judicial District of Pennsylvania, and did not reflect an official position of the U.S. Department of Justice.)

The passage of the Organized Crime Control Act in 1970 brought all major gambling enterprises within the reach of Federal prosecution and greatly accelerated Federal efforts against illegal gambling activities in Western Pennsylvania. A new anti-organized crime "Strike Force" that became operative in the Pittsburgh area at this time further increased the pressure on all syndicate activity and resulted in the conviction of the leaders of several multi-million-dollar gambling operations.

Authorities estimate the annual "take" of illegal gambling to be between \$20 billion and \$50 billion nationally, \$350 million per year in the Commonwealth of Pennsylvania, and \$100 million per year in the Greater Pittsburgh area alone. The major sources of gambling in the Western Pennsylvania District are the numbers and sports betting operations. Both are highly organized and systematically devised so as to insure maximum bettor participation at a minimum risk to the operator.

Law enforcement communities recognize that illegal gambling is the "cash register" for all organized crime operations. Without illegal gambling's mammoth profits, it is likely that the whole structure of organized crime in the United States would collapse. These profits are used to maximize the mob's position in the community through systematic corruption of law enforcement officials who permit illegal gambling to be carried on. It is here that the syndicates exact their highest toll. Recent Federal investigations and prosecutions in Western Pennsylvania disclosed in detail the widespread nature of official corruption allied with racket activities.

If the community feels that law enforcement efforts against illegal gambling are not important, these activities should be decriminalized, and the various State legislatures should seek what many nations have provided for their citizens: Legalized and government-run gambling. However, as long as major numbers and sports betting operations remain an illegal monopoly in Pennsylvania, law enforcement officials will continue to pursue these activities vigorously in an attempt to remove the mob's influence in Western Pennsylvania communities.

The experience in Western Pennsylvania has been contrary to the "observed" sentencing pattern for gambling offenses in other States. Those involved in large-scale gambling operations in this region have

received "appropriate" sentences. The sentences of those not jailed were such that probationary terms included a specific provision prohibiting the probationers from returning to the gambling business. This situation is due to the efforts by the United States Attorney's office to educate the judiciary and to acquaint the judge at the sentencing time with factors that are relevant for sentencing purposes.

There is a vast public relations effort on the part of the organized crime syndicates to make it appear that gamblers at the lower level are individual practitioners who have no ties to the "bad guys." This is a total fallacy. There is no such thing as an "independent" book. The so-called "independent" book relies on the syndicate for--if nothing else--a layoff to reinsure those bets for which he may be exposed. These latter operations in Western Pennsylvania constitute a monopoly of the vast organized crime syndicates.

The subject of minimum mandatory sentencing is complex. There are strong arguments to be made that discretionary authority of the courts should be reduced because the so-called "light" sentences have failed to deter crime. On the other hand, there is the reasonably valid argument that juries and judges will be less likely to convict if they know a minimum sentence will be imposed.

TESTIMONY OF:

• Joel Friedman, Chief Attorney, Department of Justice Organized
Crime Strike Force in Philadelphia

MAY 29, 1975

The legislation passed by Congress directed at illegal gambling gives the Philadelphia Strike Force one of its most important weapons with which to prosecute the leadership and financial underpinnings of organized crime. The gambling statutes must not be removed.

The most pervasive illegal activity dominated by organized crime is gambling. However, the average sentence in gambling cases in the Eastern District of Pennsylvania is probation, which does not have a major impact upon organized crime. The prosecutor must impress upon the judiciary the significance of gambling cases and the necessity of lengthy jail sentences. Also, court-authorized wiretaps, consensual recording devices, and the use of immunity are essential to successful prosecution of high-echelon organized crime figures and corrupt individuals associated with gambling cases.

As long as it is a fact that the mob controls gambling or significant portions thereof, the best way to prosecute the leadership of the mob is through the enforcement of the Federal gambling laws. Legalization of gambling in any of the commonly suggested forms will not significantly reduce organized crime's control over the industry. This is indicated by the fact that during the period immediately preceding the referendum in New Jersey relative to legalization of gambling, intelligence reports available to Strike Force personnel indicated that a significant number of organized crime figures were moving from New York and the Philadelphia areas into the New Jersey area. These criminals appeared to be purchasing property in areas where the legalized gambling industry was anticipated to be the busiest. One can only conclude that members of organized crime were awaiting participation in the legalized gambling field.

Legalized gambling will not significantly decrease the number of people betting with the bookies, but instead will draw most of its revenues from those who now bet infrequently. It probably also will tend to increase the number of loan shark victims. The only system that would make legalized gambling competitive would be to make numbers, sports, or horse betting a tax-free, unregulated activity producing no revenue for the State. Any realistic form of State regulations would put legitimate gambling automatically at a disadvantage with the professional gambler.

TESTIMONY OF:

- Richard J. Baker, Special Agent-in-Charge, Federal Bureau of Investigation, Philadelphia
- Jack Howell, Organized Crime Program Coordinator, Federal Bureau of Investigation, Philadelphia

MAY 29, 1975

The primary responsibility for investigation of illegal gambling lies with State and local officials. However, because gambling operations are national in scope, the presence of the Federal Government is necessary in the enforcement of gambling laws.

The FBI is opposed to illegal gambling because it has been legislated as illegal, and because it is for the most part under the control of organized crime. Illegal gambling is the major source of income for organized crime both nationally and locally.

In the Eastern and Middle Judicial Districts of Pennsylvania, there are basically four groups that fall within the definition of organized crime and obtain the majority of their income from gambling. Illegal gambling in this geographical area is divided into the 3-digit numbers lottery, off-track wagering on horse races, wagering on national sports events, and dice games and card games. The largest dollar volume is conducted on the 3-digit numbers lottery and wagering on national sports events.

In 1961, interstate or foreign travel or transportation in aid of a racketeering enterprise became a Federal crime. In 1968, under the Omnibus Crime Control and Safe Streets Act, court-authorized electronic surveillances were allowed. Since being armed with this Federal legislation, the Philadelphia office of the FBI has made substantial inroads in the investigation of illegal gambling operations in the area.

In late 1970, the Organized Crime Control Act of 1970 was enacted by Congress; it provided the FBI with additional methods of dealing with violators of Federal gambling statutes by making a gambling operation involving five or more persons who either grossed \$2,000 or more daily, or remained in continuous operation for a period of more than 30 days, in violation of the Federal statute, with no interstate aspect required. The Witness Protection Act is another material aid to successful prosecution. The steadily increasing number of convictions are directly attributable to the passage of these two statutes.

Various congressional hearings involving gambling and organized crime reflect that--in addition to gambling's being a prime source of revenue for organized crime--this activity has also resulted in the corruption of political and police officials. The Federal Government's intensified effort in gambling investigation under Title 18, Sections

1955 and 1511 (Organized Crime Control Act of 1970), has served as a deterrent, both because the police officer is aware of the Federal Government's intention to pursue corruption and because the bookmaker understands that protection paid to local police is no guarantee of his not being raided, arrested, or convicted.

Large-scale participation by officials in illegal gambling extends far beyond corruption; there is general apathy on the part of some members of the judiciary and some government officials who do not think it is a crime to allow the public to gamble. There appears to be frustration on the part of some police officers who have their investigative efforts rewarded by the bookmaker's being fined only \$25 or \$50. Bookmakers and numbers operators have been accustomed to low fines and short periods of probation. Jail sentences and the use of the immunity statutes are the types of deterrents required to create a real impact on the bookmaking community. Also, some very serious consideration should be given to incorporating mandatory minimum sentencing into any additional legislation.

Investigations and intelligence information indicate that the legalized lottery in Pennsylvania has had little or no effect on illegal gambling. It would appear that local lotteries are not geared to compete with illegal gambling. As to whether or not legalized gambling would have an impact on illegal gambling, it is the FBI's experience that in those areas where legalized gambling exists, it provides no deterrent to the illicit operations of the underworld.

TESTIMONY OF:

- Joseph O'Neill, Police Commission, Philadelphia Police Department
 - Frank Scafidi, Chief Inspector, Philadelphia Police Department
- MAY 29, 1975

The statement by an earlier witness, Special Prosecutor Walter Phillips, that "illegal gambling is open and widespread in Philadelphia and flourishing because of paid-for protection by members of the Philadelphia Police Department" appears to be erroneous. It is true, however, that the police do not have the necessary public support for the fight against criminal gambling.

Today, the practice by certain nonprofit organizations of using gambling to raise funds is tolerated. The same type of gambling for others is illegal. These operations must all be uniform.

Some form of legalized gambling would be beneficial to the community in many ways:

1. It is estimated that several million dollars is wagered by illegal gambling activities in Philadelphia each year. This money could be channeled into legalized activities, with some portion of revenue being diverted to government for public benefits.
2. Most of the manpower now being expended on investigating, arresting, and presenting evidence against gamblers and related activities could be diverted to the suppression of violent crime and other services to the people.
3. Last year, only six persons among 2,937 arrested charged with gambling went to jail on the charge. The time of the police, the prosecutors, witnesses, courts personnel, and judges could be rechanneled toward more meaningful objectives.
4. Legalization would set standards for the proper administration of all gambling activities.
5. The possibilities of a 2-year moratorium on the enforcement of certain gambling laws should be reviewed. During this period, State authorities could grant interim licensing privileges to permit bookmakers to operate under carefully controlled conditions. Also, bookmaking shops could be established as businesses licensed by the State.

Finally, if gambling were legalized, it might be possible to take money from the legal operations to pay for the enforcement of the anti-gambling laws against the illegal operations--that is, to take revenue from the legal operation and give it to law enforcement for whatever it costs to enforce the law so that the taxpayers do not bear the expense for the continued enforcement of the antigambling laws.

TESTIMONY OF:

• Allen Cox, Member, Pennsylvania State Lottery Commission
MAY 29, 1975

(Dr. Cox spoke as a private citizen.)

Earlier witnesses are mistaken in their belief that the net income from legal gambling, such as the lottery, could be used to assist law enforcement officials in their fight against organized crime. In the Pennsylvania lottery, for example, net income is down from last year, and that income has already been committed by the State legislature to benefit the senior citizens of Pennsylvania. Where the money is going to come from to make up the deficit that has been committed through the end of the year is an unanswered question.

Research indicates that organized sports gambling can be legalized on a professional level only. Federal legislation would be necessary because of the interstate nature of sports. It would probably be in the best interest of the Federal Government to tax the winnings of sports pool betting but at the same time to put strong teeth into penalties for illegal operations of the same type--i.e., heavy fines and jail penalties with no early probation.

In the long run, putting illegal sports and numbers betting into the goldfish bowl of public scrutiny could be the best single move that the National Gambling Commission could make in its recommendations to Congress.

TESTIMONY OF:

- Charles Brown, President, Pennsylvania District Attorneys Association and District Attorney, Centre County, Pennsylvania

MAY 29, 1975

In communities throughout Pennsylvania, such as those in Centre County, gambling is a part of everyday living. Various organizations rely heavily upon bingo games, raffles, and lotteries for income. To attempt to enforce the gambling laws in such a situation is impractical because the situation is saturated with hypocrisy and selective law enforcement. Further, local and State police forces and district attorneys' offices do not have the manpower or finances available to pursue the prosecutions of gambling at this level. These limitations adversely effect investigations and prosecutions aimed at organized crime.

On several occasions, the Pennsylvania District Attorneys Association has passed resolutions favoring legislation permitting bingo where the proceeds will benefit an educational, fraternal, or charitable group. It has also suggested that raffles and lotteries be legalized where these groups will benefit. However, because gambling proceeds are a major source of income for organized crime, the District Attorneys Association realizes that it is difficult for law enforcement agencies to permit charitable organizations to raise funds while at the same time denying this freedom to the criminal elements in society.

Following are some suggestions that reflect the thinking of many district attorneys:

1. Permit statewide lotteries and perhaps some other forms of gambling for revenue-raising purposes.
2. Take the handcuffs off law enforcement efforts to combat organized crime. Wiretaps and electronic eavesdropping should be permitted; district attorneys should be given full power to grant immunity to key persons in order to obtain their testimony before grand juries and at trials; and full subpoena power should be given to district attorneys in order to facilitate the investigation and preparation of cases.
3. Do not legalize sports gambling.

TESTIMONY OF:

• Matthew P. Boylan, Director, Division of Criminal Justice,
New Jersey Department of Law and Public Safety

MAY 29, 1975

Gambling is an aspect of organized crime that continues to exist in New Jersey despite a vigorous law enforcement program.

New Jersey follows the recommendations of the Hudson Report, which is the most impressive work in the field in terms of justification for legalizing gambling, and combining strong law enforcement against illegal gambling while legalizing those aspects of gambling that can be legalized under the present methods available. On May 22, 1975, New Jersey introduced a daily lottery, which, according to the Governor, "will make inroads into the illegal numbers racket." However, because it is necessary to meet on a legal basis the dollar and convenience level one can get from the illegal games, revenue must be incidental.

Serious consideration ought to be given to devise a system of legal wagering on sports events in order to combat crime. Legalized sports betting would not pose any greater problem than the illegal sports betting that exists now.

Although gambling is not encouraged in New Jersey, the State has provided a sufficient number of outlets to at least serve the public's desire to gamble.

The referendum to legalize casino gambling in New Jersey, which failed, would have established casinos in a limited fashion only and would have provided many options to guarantee that some funds would go to help the unemployment situation.

TESTIMONY OF:

• Francis J. Schafer, Executive Director, Pennsylvania Chiefs of Police Association

MAY 29, 1975

Legalization of the common forms of gambling is a good method of combating organized crime by eliminating the profit from illegal gambling; of providing an outlet for the average person's gambling urge; and of providing monies to municipalities for police salaries.

The following specific forms of gambling should be legalized, with certain qualifications.

1. Bingo. Government should license this type of entertainment and continue to investigate the licensed operations, insuring that they are conducted properly and not financed by the underworld.

2. Numbers. Numbers is a way of life in all the metropolitan areas of Pennsylvania. If numbers were legalized, the payout could be about 700-to-1, with 10 percent to 12 percent taken off the top for income for the State.

3. Off-track betting. According to the law, there is a double standard regarding off-track betting: It is legal to place a bet on a horse at the track but not off-track. This contradiction in our laws must be corrected.

4. Sports betting. Betting should be permitted on professional and perhaps even college sporting events.

5. Slot machines. Presently there is a bill in the Pennsylvania legislature to permit slot machines in clubs. Providing that these machines are not installed in places that children frequent, the bill should be approved.

If gambling is legalized, the State should not be involved as a "bookie" but rather as an agency to issue gambling licenses. With proper licensing, local police would be in a better position to eliminate illegal gambling. Also, if legalized gambling were properly administered, it would make a large dent in the revenue of organized crime by diverting that source of revenue into other channels. If gambling is legalized, States must make sure that it is not overtaxed, as this would make illegal gambling profitable.

TESTIMONY OF:

• John J. Harrington, National President, Fraternal Order of Police
MAY 29, 1975

The gambling laws in this country are the most difficult laws to enforce and, according to statistics, are a waste of police manpower and time. Last year in Philadelphia, there were 3,000 gambling arrests made by police. Of these arrests, there were only 250 convictions and three jail sentences. The gambling laws are also discriminatory, because they apply only to people in the low income bracket.

In order to make inroads into organized crime, all forms of gambling must be legalized. Gambling should be controlled by both the Federal and State governments. In this way, money would be provided for the public benefit, as is the situation in other countries. Legalized gambling would also protect the bettor because legitimate betting parlors could be established that would carry insurance.

Finally, legalized gambling would be a service to the people because it would release hundreds of police officers and other law enforcement officials from chasing people for minor gambling offenses and allow them to concentrate their efforts on the more serious crimes plaguing society.

STATEMENT SUBMITTED BY:

• John J. Hickton, District Attorney, Allegheny County, Pennsylvania
MAY 29, 1975

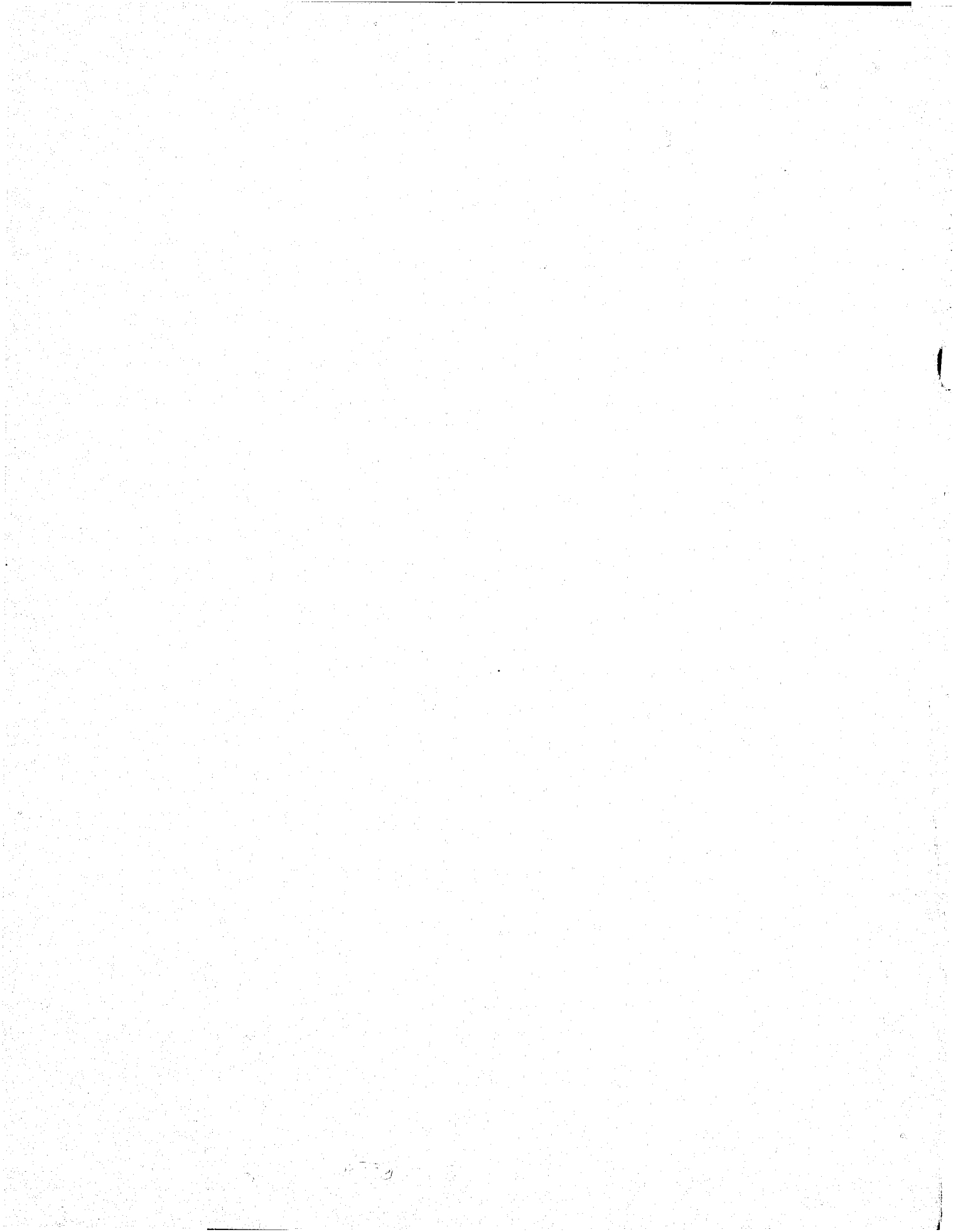
The prosecutorial situation as it exists in Allegheny County involves too many cases and too few qualified personnel to prosecute them.

In 1974, approximately 9,000 cases were prosecuted. Eighty-three percent of the complaints filed in the county involved crimes of a violent or serious nature. During this same period, 4.3 percent of the complaints represented violations of the State's gambling laws.

To redress an imbalance that favors the rights of the accused over the rights of the victim, and to improve upon the quality of representation and the conviction rate, the district attorney established a policy on the prosecution of crimes. It was decided that the first priority would be given to crimes of a violent or serious nature.

The nature of gambling offenses in Pennsylvania is uncertain. Although they are denominated by charges of "misdemeanor of the first degree" and carry a maximum penalty of a fine of \$10,000 and/or 5 years' imprisonment, a review of the dispositions of gambling offenses indicates that, almost invariably, the offender is given a nominal fine accompanied by either probation or a suspended sentence. Now before the State legislature is Senate Bill 131, which, if passed, would reclassify the gambling statutes to reduce gambling charges to misdemeanors of the second degree, thereby reducing the maximum allowable sentence to a fine of \$5,000 and/or 2 years' imprisonment. Senate Bill 559, if passed, also would legally permit the conducting of bingo.

Faced with all of these facts, the district attorney has neither encouraged nor discouraged the enforcement of the gambling statutes. He has instead attempted to deal realistically with the primary problems plaguing criminal prosecution in Allegheny County.



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TESTIMONY OF:

• Carl Levin, President, Detroit City Council

JUNE 24, 1975

Detroit has a deficit of \$50 million and a chronic unemployment level of 10 to 15 percent. Detroit needs the extra revenue and jobs that would be produced by legalized gambling. A lower crime rate would result from government's competition with organized crime's monopoly on gambling. Evidence indicates that many gambling raids and arrests in Detroit result in acquittals or dismissals.

The most important effect of legalization would be to increase respect for the law. Police corruption and payoffs would be reduced considerably. People should be able to gamble legally, since they already are doing so illegally.

Topics covered during questioning by Commission members included the following:

1. Organized crime. Local government should be the agency competing against organized crime. The National Gambling Commission should determine the facts about gambling activity, and the States should take proper action.

2. Casinos. A properly supervised gambling casino should be supported in Detroit. A bill detailing the management of the casino is pending in the State legislature.

3. Taxes on gambling. Winnings should be exempt from income taxes, even if revenues to the city somewhat decreased because of the exemption.

4. Revenues. The budget deficit in Detroit has been \$15 million to \$20 million a year and seems to be growing. The city is facing a reduction in its services, which will mean a continued reduction in population as people move to the suburbs and other areas with full services. The extra revenue from legalized gambling would help the situation. Legalized gambling, however, would only partly solve Detroit's financial woes.

TESTIMONY OF:

• Frank J. Kelley, Attorney General of Michigan
JUNE 24, 1975

Gambling should not be legalized by either the State or Federal government. Gambling has a negative effect on society that outweighs any benefits that might result from increased State revenue.

Great Britain legalized gambling in 1960. A study found that thousands of new gamblers were created, and that they came from the lower economic strata, which can least afford to gamble. Family spending patterns showed an increased proportion of household budget and income diverted to gambling; there was also an increase in the number of people who did not pay their gambling debts. The public's desire for gambling resulted in pressure for new forms of legalized gambling.

Organized crime's involvement with gambling is so entrenched that any populous State could not separate such elements from a legalized gambling program. The criminal element has much more to offer the betting public than a legitimate operation could: Convenience; anonymous participation; credit; a wide variety of wagers; and most importantly, tax-free winnings. It is conceivable that new bettors could resent the restrictions of legal gambling and switch to the more accommodating illegal gambling operations controlled by organized crime.

Legalized gambling would attract a different tourist element, altering the character of Michigan's recreation-oriented tourist establishment.

Revenue should not depend on a citizen's desire to gamble. Gamblers are not taxed for gambling in the same way as those who buy cigarettes and alcohol are. Professional gambling enriches the operator of the game at the expense of the consumer.

In most areas of criminal activity, Michigan has a lower level than in a comparable State where the ultimate in legalized gambling exists--Nevada. (This takes into account Nevada's visitors, not the indigenous population.)

Topics covered during questioning by Commission members included the following:

1. Policing authority. Each State should decide its own policing procedures concerning gambling operations. Although Michigan has legalized a number of gambling operations, the revenue that has been

generated--only 2 percent of the State budget in 1974--is not worth the adverse social effects of gambling.

2. Federal role. The Federal Government should not be involved at all in the legalization of gambling and should do nothing to encourage gambling.

3. Casino gambling. Casino gambling would not be beneficial to a populous area like the city of Detroit. Las Vegas, on the other hand, is a city that is virtually the product of legalized gambling.

TESTIMONY OF:

• Edward F. Bell, Former Judge, Wayne County Circuit Court

JUNE 24, 1975

The State should not run a legal lottery game and at the same time retain criminal sanctions against illegal numbers games. Numbers and bookie operations should be legalized to provide even more revenue.

Legalized gambling could salvage the destitute and bankrupt cities across America.

A few well-placed casinos in some of the downtown hotels would do more to stimulate the economy than bringing back any of the 20 companies that have sought refuge in suburbia. The problem of operation and control at these casinos has never impeded Las Vegas; therefore, Detroit could be expected to do as well.

If numbers were legalized, revenues to the State of Michigan and the Federal Government would increase. Illegal operators would be willing to pay the taxes legalized gambling would require. The existing numbers operations should be legalized and operators required to buy a license annually. Thus, if a license is obtainable, criminal consequences would be eliminated, and only the tax consequences would remain.

Topics covered during questioning by Commission members included the following:

1. Gambling taxation. No State or Federal taxes should be imposed on gambling winnings if legal gambling is to compete effectively with illegal gambling.

2. Sentences for gambling violations. Mandatory prison sentences for those convicted of gambling violations would not serve as a deterrent to future violations.

TESTIMONY OF:

• Dick Wakefield, Former Detroit Tigers Baseball Team Member
JUNE 24, 1975

More than 250 million Americans gamble. Two major problems exist. One is the Internal Revenue Service. The IRS should be a partner in the large amount of gambling that prevails. Taxes are ridiculous and the tax code is destructive. People cannot stand any more taxes, and they enjoy gambling; government should therefore share in it and go on with casinos and all other forms of gambling.

There would be nothing wrong with legalizing sports betting. It would not be destructive to sports, as some people claim. It is basically human nature to bet on sports. Computerized slot machines will eventually exist at ball parks and in hundreds of other locations.

TESTIMONY OF:

• Elias Koury, Detroit Businessman

JUNE 24, 1975

(Mr. Koury did not make an opening statement to the Commission or present a prepared statement for the record. The following represents a summary of the issues covered during questioning by Commission members.)

The numbers game definitely exists in the Detroit metropolitan area. Forty to 50 individuals run these games. Other persons are employed as runners. About a thousand people participate in some way. Approximately \$200,000 is involved in each day's operation.

Approximately 45 to 50 gambling banks or houses are located in the Detroit metropolitan area. There is some communication among the houses regarding the amounts of money bet on a particular basis in order to determine the least amount of money bet. The Detroit number* is decided by the mutual agreement of the five or six most important operators. The lesser operations follow suit. There are no threats or extortion involved in deciding the Detroit number. The individuals are banded together for mutual protection.

In 1969, the numbers operation in the city was raided, to no effect. Legalizing the lottery merely created new players. There is no strategy that law enforcement could utilize that would discourage people from playing numbers, whether or not the gambler purchases a legal lottery ticket.

The extralegal numbers game pays 500-to-1, and no taxation is involved. The returns for the little amount wagered are far greater with the illicit numbers game than with the legal one.

To give incentive to the runner, the house gives him a 50 percent bonus at the end of each month on all monies won. Estimated profits on the \$200,000 wagered daily are 5 percent to 6 percent of that amount.

Approximately 250,000 people wager on the numbers operation every day. The Detroit numbers has existed since 1964 or 1965.

*There are two types of illegal numbers operations in Detroit: The "Detroit number" and the "Pontiac number." The Detroit number is the one with the least amount of money bet on it; the Pontiac number is based on racing results.

There is nothing to stop an individual from becoming a numbers runner; there is no coercion or influence by organized crime groups to deter him.

The average amount of money an individual wagers on numbers is from 15 cents to 25 cents a day. Profit from the numbers game may help support illegal activities in other fields.

A numbers runner is rarely involved in booking horses. Sports betting goes more often to the bookmaker rather than to the numbers person.

TESTIMONY OF:

● Ivan Barris, Detroit Attorney

JUNE 24, 1975

All forms of gambling should be decriminalized. Law enforcement agencies attempt--usually with little success--to enforce criminal sanctions against various forms of outlawed gambling. Other forms of gambling are tolerated and sanctioned by the State. It is hypocritical for the State to derive revenues from some gambling activities while prosecuting others. Michigan received \$92 million from various forms of legalized gambling activities in 1974.

The decriminalization of gambling will end the corruption of police officers and other law enforcement personnel who have been paid to protect organized gambling activities. Law enforcement officials on the national, State, and local levels could divert their efforts toward other areas of law enforcement which deal with wrongdoing far more pernicious than gambling--trafficking in hard drugs and criminal assaults, for example.

Perhaps winnings on the lottery should be tax-free; although the function of raising revenue is defeated, the State-regulated or State-operated gaming operations would be more competitive with other forms of privately-operated gambling.

The State should license and regulate individuals employed in legalized gambling.

TESTIMONY OF:

• Roy C. Hayes, Director, Wayne County Organized Crime Task Force
JUNE 24, 1975

The Organized Crime Task Force felt that illegal gambling-- thought to be organized crime's largest source of income--should be one of its main targets. Despite the Task Force's efforts, however, only two of the hundreds of persons indicted on gambling charges over a 5-year period received jail sentences. The public does not take gambling cases seriously enough.

Organized crime is concerned with even the smallest gambling operation. And other illegal activities--loansharking and prostitution--go hand and hand with illegal gambling. Any efforts to legalize gambling will have to consider these concomitant crimes if legalized gambling operations are to be kept free of organized crime influence.

Local law enforcement agencies in Michigan do not have wiretapping authority. Such authority is needed before they can develop cases against major illegal gambling operations.

Before the public will become concerned about these operations, it must realize that more pernicious crimes--such as narcotics trafficking--are financed with illegal gambling income. Because the public is indifferent to gambling violations, prosecutors try to turn these cases into perjury or loansharking cases that the public cares more about.

TESTIMONY OF:

• Vincent Brennan, Judge, Michigan Court of Appeals
JUNE 24, 1975

The Federal Government should leave the legislation and the policing of most forms of gambling to the States. Horse betting and off-track betting, which are easy to police, should be legitimized. The numbers racket, which is controlled by organized crime, is more difficult to police. The government should not legislate or encourage gambling, nor should it legislate against it because that would drive it into the hands of organized crime--prohibition was an example of that.

Most people want to gamble and do. Much antigambling sentiment is based on the Puritan ethic that rewards should be earned, not won by chance. However, there are many people who work hard and also gamble. Gambling is a victimless crime and a voluntary one.

Legalization of casino gambling would make it a more honest operation: Crooked games and operators would be outlawed, and records would be open for inspection.

Sentencing of small-time gamblers presents a dilemma for the courts, which sometimes question whether a person who places a bet on a horse in the street should be punished while the person who bets on the same horse at the track is not. Likewise, small-time bookmakers, who are not mob-controlled but rather independent businessmen, perhaps should not be jailed for practicing their trade.

Again, the courts use their own judgment when it comes to sentencing the operators and players in gambling dens. Big-time operators with previous records often receive fines and jail sentences; neighborhood players are usually fined or reprimanded.

If the easy-to-police forms of gambling were legalized and licensed, not only would the States benefit from increased revenues, but organized crime would lose a major income source, and corruption of government officials would end.

Questioning by Commission members concerned the subject of mandatory sentencing. Judge Brennan stated that mandatory sentences would deter few gamblers or bookmakers. But he stated that mandatory sentences should be imposed on operators convicted of cheating in order to maximize their gambling profits.

TESTIMONY OF:

● James E. Roberts, Chief Federal Defender of Detroit
JUNE 24, 1975

In spite of increased prosecution by U.S. attorneys of illegal gambling participants, it is doubtful that organized crime itself is being affected. This point raises many questions concerning gambling as a criminal activity.

First, one may wonder what the intent of the law is when a gambler is prosecuted as a criminal. There are obviously no injured victims, since gambling participants are engaging in voluntary behavior. The act of gambling itself brings no harm to person or property, so the criminal law in this instance is not protective. The public in general supports gambling as an activity and certainly does not look upon wagering as aiding and abetting organized crime. Furthermore, a State government cannot uphold a prohibition of the numbers racket or of off-track betting when it administers a State lottery, sanctions bingo games, and indulges in many other gambling activities. It is incredible to assume that society finds gambling immoral when it is often a church that is running a legal bingo game.

Nevertheless, illegal gambling does harm society in several ways: loss of tax revenue, profits to organized crime, and official corruption. In addition, illegal gambling cases keep police and U.S. attorneys busy with relatively unimportant cases, taking valuable time urgently needed for stricter and more efficient enforcement of other truly harmful activities. As for organized crime, it appears that few bosses are prosecuted and convicted, and most gamblers on the street would contend that only small operators are caught and prosecuted.

Incarceration on a gambling charge cannot be considered rehabilitative since wagering and betting are activities sanctioned by the general public. Prosecution of gambling offenders is costly to society, since the largest number of offenders prosecuted are likely to be indigent or low income people whose defense must be paid for by the public.

It is not rational to believe that the criminal law can control human behavior through prohibition. To use the criminal law in this manner tends to abuse its effectiveness in important areas. Regulatory programs backed up by criminal sanctions should replace the current unenforceable gambling legislation.

Topics covered during questioning by Commission members included the following:

1. Gambling regulation. Gambling should be regulated and monitored by the government and taxed off the top. The government would reap financial benefits; dishonest operators would not be able to juggle results to suit their odds; and the personal violence associated with illegal gambling--such as that in numbers switching cases--would diminish.

2. Gambling complaints. Gambling complaints by the public seem to vary with the income class of a neighborhood. The more affluent areas complain little, presumably because their populations can afford to gamble. In poorer areas, however, gambling complaints are much more frequent because money lost through gambling often means that a family will have to go without basic necessities. When enough complaints are received, the police are forced to take action.

TESTIMONY OF:

- Henry Dodge, President, Civic and Consumer Council; and
Director, Greater Detroit Home Owners' Council

JUNE 24, 1975

Gambling should be legalized so that State and local governments can get their fair share of the revenue derived from it, rather than using government revenues to prosecute these activities. State and local governments could derive fiscal benefits through taxes on voluntary wagering. Organized crime would also be affected. The 400,000 members of the Greater Detroit Home Owners' Council support "painless" taxation through legalized gambling.



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TESTIMONY OF:

- Philip G. Tannian, Chief of Police, Detroit Police Department
- William Hart, Deputy Chief, Detroit Police Department
- George B. O'Connor, Sergeant, Detroit Police Department

JUNE 25, 1975

There are five types of illegal gambling in southeastern Michigan: Off-track betting, sports betting, mutuels or numbers, football pool cards, and a category called wagering, cards, and dice. The sum total of all of these illegal activities is slightly more than \$285 million a year. The gambling problem in Detroit does not have highest priority. Some people charged with gambling offenses are convicted, but this does not affect illegal gambling in Detroit. Citizens' support and the support of law enforcement authorities are lacking. The Detroit Police Department alone cannot control illegal gambling. Penalties amounted to \$41,072 in 1974. During the 3-year period from 1972 through 1974, 499 persons were convicted of gambling offenses but none was sent to prison.

Topics covered during questioning by Commission members included the following:

1. Organized crime. Most illegal gambling operations are controlled by organized crime. Part of the profits on illegal gambling go to organized crime, but the exact amount is not know. There is no formalized way that the courts can know of a person's association with syndicated gambling operations. The courts might react differently if this information were made available.
2. Numbers operations. There are two types of numbers operations in Detroit. The Pontiac number is based on certain track results. The Detroit number is a manufactured number; one or two men keep track of the play and manufacture a number that will minimize the payoff. About 50 percent of the play in Detroit is on the Detroit number. Numbers operators who do not follow this system are often forced out of business.
3. Lotteries. As much as 50 percent of the population in the tri-county area make some sort of wagers in the illegal categories. The lottery has perhaps enhanced the amount bet on numbers. It also is no competition for the numbers business: A bettor cannot select his own number in the lottery; credit does not exist; there are no telephone bets; and there is no door-to-door service.
4. Layoffs. If books are overplayed, layoffs go to individuals in Detroit who function as layoff operators. Money is laid off to out-of-town sources, but the State and the Detroit Police Department have never had the authority to conduct legal wiretaps to uncover this activity.

The telephone is used for interstate layoffs. Wiretapping authority would enhance law enforcement's ability to get at organized gambling efforts and at important organized crime figures.

5. Gambling monies. When gambling money is seized by the courts, it goes into the general fund for the city of Detroit. These monies only amount to .10 percent of the annual budget, an insignificant amount.

TESTIMONY OF:

- Casmer P. Ogonowski, Representative, Michigan House of Representatives; and Chairman, Special House Committee to Study Casino Gambling

JUNE 25, 1975

Michigan has had parimutuel wagering since 1933. The ban on lotteries was repealed in 1972. After bingo was legalized, 97,000 people played the game every week. Certain statutes must be amended to allow legalized casino operations.

Casino gambling attracted legislative interest because it holds the potential for raising government revenues, bolstering the State's tourist industry, diversifying the economy, and adding employment opportunities. Eighteen legislators initiated a study of casino gambling. (There is support in the Upper Peninsula to make that portion of Michigan the 51st State, and to legalize casino gambling for tax revenue and to attract additional tourists.)

The two questions are: (1) Do Michigan citizens want legalized casino gambling? (2) Would the economic benefits of casino gambling outweigh the social and law enforcement implications?

Research is being done in areas that have casino gambling or have seriously considered it. Questionnaires have been sent out to city and county officials, law enforcement agencies, chambers of commerce, the tourist industry, and other special interest groups. Public hearings are also to be held around the State. On a statewide basis, favorable responses seem to have been received from sheriffs and prosecuting attorneys. Among comments received to date, there is overall support in favor of limited casino gambling in Michigan.

The competitive effect of legalized casinos on the State's existing horseracing and lottery operations must be considered. It is also necessary to know if competitive casino operations in neighboring States would jeopardize the success of Michigan's casinos. Should legalized winnings be subject to Federal and State income tax? Should credit be extended to wagerers? Will loansharking be prevented?

Advantages of casino gambling exist that are not found with other forms of gaming, and which would adapt well to tourists' needs. Casino gambling is concentrated in specific locations with accompanying entertainment and social attractions to enhance gaming activities. Casinos can be geared to various socioeconomic groups by varying marketing and service techniques. However, areas with casinos may draw business away from existing tourist attractions and facilities in the State. Michigan's present reputation as an outdoor and family-oriented vacation State might be downgraded.

The popularity of social and quasi-gambling entertainment ("friendly poker," pool, golf, television game shows, informal wagering on sports events, etc.) should be studied. Gambling coverage by the media on publicized weekly lotteries, drawings, and race results from the tracks could promote not only the legal industry but the illegal industry as well.

TESTIMONY OF:

• Ralph Guy, U.S. Attorney, Eastern District of Michigan
JUNE 25, 1975

The Eastern District of Michigan comprises about 80 percent of the State's population. There is no doubt that illegal gambling is a multibillion dollar business. Monies obtained from gambling operations are used to finance other illicit underworld activities such as narcotics trafficking. Legalization of gambling would not put the underworld's illegal gambling operation out of business. First, people, by habit, would not change the practice of betting with their local bookie. Second, there may also be a difference in the odds, point spreads, or payoffs between State-operated gambling and private illegally operated gambling. Third, no governmental gambling outlet could offer the convenience of an in-resident bookie, who operates out of auto plants, retail outlets, and other locations where large numbers of people congregate. Fourth, credit cannot be offered by the State.

Gambling can never be just a part of the free enterprise system even if all restrictions on gambling activity were removed. It would result in revenue loss to the State, and, more importantly, powerful organized crime figures would monopolize the field.

As far as revenue to the government is concerned, a few facts must be considered. First, the more units of government that get into gambling operations and diversify the type of gambling offered, the more revenues currently being received will be diluted. Gross revenues will increase, but the net received from current operations such as horseracing or lotteries might well diminish. It is a regressive method of raising revenue. Those in the lower income brackets would wager a larger share of their net income than those in the higher income brackets.

The government will expand to match its capacity to obtain revenues. There is no effective check on government spending except public dissent. The public must genuinely want to legalize gambling fully. The public must also decide what "tone" or "character" they want for their communities. There is a difference between merchandising a State on the basis of its scenic attractions and places of historical interest, and advertising that State or city as a miniature Las Vegas.

Federal action should not result in the complete decriminalization of gambling, since States already have the power to move forward in this area if they so desire. States that wish to stay out of the gambling business should get Federal assistance, since most large-scale gambling operations are interstate in character and are therefore difficult for individual localities to enforce. Federal law enforcement is basically sound in its approach to gambling as a fairly low priority problem.

Topics covered during questioning by Commission members included the following:

1. Federal gambling statutes. The Federal antigambling statutes are basically adequate, particularly now that they are able to reach a completely intrastate gambling operation.

2. The courts. The courts react adversely to gambling cases because many such cases are extremely complex. They are usually multiple defendant cases necessitating multiple counsel representing the defendants. If regulation is to be upheld at all, criminal sanctions--including imprisonment--should be the enforcement tools. Mandatory sentences, however, are highly debatable. The best solution would be limited control of gambling by the States, with Federal support where necessary.

TESTIMONY OF:

● Gus Harrison, Commissioner, Michigan Bureau of Lotteries
JUNE 25, 1975

There is a definite trend in the United States toward legalizing gambling. Illegal gambling flourishes, however.

The Michigan lottery uses products that cross State lines. But in compliance with the law, out-of-State memberships to the State's Chance of a Lifetime Club have never been solicited or allowed. This results in a loss in potential revenue to the State of more than \$1 million a year.

Television and radio are expensive ways by which to promote the lottery, and are being used cautiously because of uncertainties about applicable Federal regulations. Newspaper advertising has been successful in stimulating lottery sales.

It is possible that the Michigan Lottery Bureau could be expanded to include selected types of gambling such as daily number games, sports betting, and off-track betting. The legislative and executive branches of State government must give their approval, but the decision ultimately must come from the public.

Where a very small wager can yield a significant return, there is little danger of undermining the social fabric. In casino betting and off-track betting, however, where skill and acumen come into play, there is a danger that some people will gamble to excess. Presently the lottery bureau depends on a large number of small bets.

If the Federal proposal to tax lottery proceeds and to impose occupational taxes upon ticket sales agencies were enforced, it would mean the end of the State lotteries. Lotteries work on a profit margin basis; with 5 percent commission, the lottery returns profits to the State and to most sales agents.

The lotteries, with some degree of justification, have been called "the voluntary tax." Lottery players are generally those in the middle income group, and these people would probably bear the brunt of new taxes that would have to be imposed to replace lottery revenue if the lottery were discontinued. The people of a State should decide what kind of gambling to allow.

The government can operate other forms of gambling besides lotteries and bingo. But legalizing gambling would not necessarily eliminate illegal gambling. The present legal gambling operations in Michigan will not seriously deter illegal operations. The public must make the final determination on how far to go with legal gambling.

At this point, the public is not sure which way it wants to go and is looking for guidance and information on the subject.

Topics covered during questioning by Commission members included the following:

1. Lottery advertising. Lotteries should not be strongly advertised or advocated on radio and television. States should not use the hard sell approach. If a point is reached where a State is pushing lottery tickets to poor families, some prohibitions might be in order.

2. Lottery credit. Lottery tickets can be purchased on a credit card; as, for example, when a customer charges his lottery ticket along with other purchases in a grocery store.

3. Distribution of lottery revenue. Of the gross lottery revenue, 45 percent is awarded in prizes and 45 percent is net profit to the State. Out of each dollar, 10 cents is spent on administration, including salaries, wages, and advertising.

TESTIMONY OF:

- Allen Rice, Executive Director, Michigan Council on Alcohol Problems; and United Methodist Minister

JUNE 25, 1975

The Council on Alcohol Problems is the unofficial action arm of the Protestant churches in Michigan. More than 5,000 ministers are on its mailing list, and none uses the eligibility of nonprofit organizations to raise money through bingo.

The social consequences of legalized gambling are of great concern. Alcoholism and gambling have some similarities. There is considerable public awareness about alcoholism today, yet there is little recognition that there are between 6 million and 7 million persons addicted to gambling.

States with the strictest alcohol control laws and fewest number of liquor outlets have the lowest rate of alcohol consumption and the lowest rate of alcoholism. Conversely, States with the most readily available alcohol have the highest consumption of alcohol and the highest rate of alcohol problems.

Restricted legalized gambling exists in the United States today. If this government sanction were enlarged, the number of people who participate in gambling would increase and so would the number who become addicted to gambling.

Consumers should be protected. Residents of Michigan should be told that the odds of winning a million dollars in the Michigan lottery are one in 30 million. The best odds to win the lottery are one in 250 to win \$25.

Legalized gambling may increase illegal gambling because of the permissive climate that legal gambling creates. In no way can legal gambling that produces substantial revenue compete with illegal games in which no taxes are paid by either the operators or the players.

Gambling, if expanded, will be used to raise money for government. It is wrong for a government to prey on the weaknesses of its citizens for profit. Even though gambling revenues are promoted as "painless taxes," they make up a relatively small part of government revenue. In Michigan, with a State lottery and year-round wagering on both thoroughbred and harness horse tracks, revenue from legalized gambling amounts to barely 2 percent of the State's total budget.

If gambling were expanded, the entire character of the Michigan tourist business would change from the current family-type tourist trade to a gambling-oriented trade.

Although the gambling situation Michigan now faces is not an ideal one, it is far better than it would be if the State or the country further opened the doors to legalized gambling. One Las Vegas is enough. There are presently enough legal outlets to satisfy the gambling needs of the citizens of Michigan and of the Nation.

Topics covered during questioning by Commission members included the following:

1. Tax reform. Reasonable and realistic tax reform would be more effective in helping Michigan secure revenue than further legal gambling.

2. Council plans. The churches represented by the Council hardly use the lottery system at all. Many of the churches resent the introduction of the lottery, but are doing nothing to resist it. The Council opposes the legalization of dogracing, casino gambling and off-track betting in Michigan.

TESTIMONY OF:

● Robert J. Columbo, Judge, Detroit Recorder's Court, Criminal
Division

JUNE 25, 1975

The Recorder's Court for the City of Detroit handles all criminal cases, both felonies and misdemeanors, for that city. The court gets gambling cases that usually involve multiple counts of conspiracy to violate the State's gaming laws. The defendants are not known gamblers or involved in organized crime. Bookmakers who appear before the Recorder's Court are small operators running small-time operations.

People who play the numbers usually are poor people who are looking for something for nothing--a large payoff which they do not have to pay taxes on.

Legalized lotteries and bingo have not reduced illegal gambling: The numbers rackets are still flourishing. The State should tax the people in the numbers business, in the bookmaking business, in the Barbouth games, and in other forms of gambling, who are not now paying taxes.

The Federal Government should enact legislation that would exempt gambling income from Federal income tax laws. Thus, people who gamble illegally would be inclined to gamble legally and would play the lottery more than they do now. Also, consideration should be given to licensing and taxing the people involved in off-track betting.

Gambling cases, once brought to trial, are so complex and time-consuming that the time spent on trials is disproportionate to the seriousness of the offense. Juries--more concerned with murders, robberies, and burglaries in Detroit--are not very concerned with gambling cases and are not inclined to convict in those cases. The prosecution often must plea bargain these cases--as high and low misdemeanors--to get a conviction at all.

Topics covered during questioning by Commission members included the following:

1. Lotteries. If the lottery is run on a daily basis, as it should be, it might ultimately put the illegal numbers game out of business.

2. Gambling convictions. Since the 1960's, the number of prison terms for persons convicted of gambling offenses has decreased. This is because fewer major gambling figures have been arrested. Either these

people have moved to suburban areas and insulated themselves from daily operations or law enforcement's competence in dealing with these cases has decreased.

3. Civil remedies. Civil injunctions or "padlock" proceedings could be used to shut down numbers operations instead of having the police work for years on conspiracy cases.

4. Sentencing. There should be mandatory jail penalties for people convicted of fraudulent practices regarding legal gambling operations.

TESTIMONY OF:

- Dominick R. Carnovale, Prosecutor, Criminal Division, Wayne County Prosecutor's Office

JUNE 25, 1975

Gambling is a social problem that law enforcement will never eliminate.

Monies obtained by illegal gambling cartels are used eventually to finance other, more reprehensible forms of organized crime such as narcotics trafficking. Decriminalization of gambling might effectively eliminate the large source of organized crime finances, but this is not really known yet.

Police are apprehending illegal gamblers and the gamblers are being convicted, but they are not going to jail. Gambling cases involve illegal mutuels or numbers, illegal sports betting, and illegal off-track betting.

The current Michigan gambling statutes are absurd if applied pragmatically. It does no good to arrest, prosecute, and convict the same kinds of people over and over if there are no meaningful punishments applied to their behavior. Jail sentences should be mandatory, and law enforcement should be given ample tools to go after the "big boys" of organized crime. Efforts must be redoubled to guard against official corruption.

Wiretapping should be legalized in order to get at the big gambling interests.

TESTIMONY OF:

• Peter M. Waldmeir, Columnist, The Detroit News
JUNE 25, 1975

Bookmaking is not completely harmless, because a certain amount of money from each bet is funneled upward to organized crime bosses. Illicit gambling tempts unscrupulous people to "fix" competitors, trainers, officials, and entire sporting events. It produces money that has the potential power to corrupt judges, police, politicians, and even Federal agents.

The present system of combating illegal operations is not effective. Legalized gambling may not be the answer, but allowing gambling to remain in its present condition is not.

Topics covered during questioning by Commission members included the following:

1. Casino gambling. Casino gambling would be a profitable endeavor for the State of Michigan.

2. Sports betting. Sports betting already exists, so the integrity of a sport would not be affected much if sports betting were legal.

3. Betting by athletes. High salaried athletes would not risk their incomes to make a much smaller sum from a bookmaker, either through betting or game fixing. Although players bet on games, the practice is not rampant.

TESTIMONY OF:

- Johannes Spreen, Sheriff, Oakland County; and Director, Law and Protective Program, Mercy College (Detroit)

JUNE 25, 1975

Gambling is the most prevalent business of organized crime, generating the largest take and the biggest profits. It is more generally tolerated, and less widely regarded as a genuine evil, than narcotics and loansharking.

Police have neither the resources, manpower, training, nor the sophisticated equipment to combat illegal gambling. Law enforcement officials concentrate primarily on preserving peace, preventing and deterring crime, and arresting perpetrators of crime.

A complacent public wants the service of the bookmaker or the numbers runner.

If gambling were legalized, more people would be attracted to it, particularly those who can't afford it. If gambling were legalized, organized crime might concentrate more on narcotics and other serious crimes.

If gambling is legalized, the State must be competitive with the bookie in all areas, providing such fringe benefits as daily action, exotic types of betting, credit, and perhaps the running of daily numbers. If a person wins from an illegal bookmaker, it is a tax-free winning; if he wins from the government, he must declare it.

The heads of major police departments in this country hold their positions on the average of a year and a half. This is not enough time for a law enforcement agency to develop a workable program to combat illegal gambling. Time, research, planning, and new management techniques are needed. A coordination and consolidation of police effort is needed. Gambling is more a State and county responsibility than a local one. Local police do not have sufficient resources to control illegal gambling.

Gambling should be legalized, and police should "muscle in on the mob." Bookies and numbers runners who are businessmen should be licensed. The taxpayers would have less of a burden if government could recoup some of the money that is now being drained off to the corner bookie and the numbers runner, and, ultimately, into the hands of organized crime. Some of that money could be allocated to police agencies to be used against organized crime.

Fifty percent of the local governments' law enforcement expenditures should be matched by the Federal Government. Some of this money could be

obtained from legalized gambling. A coordinated, cooperative team effort is necessary. Police departments should have access to electronic surveillance by court order, and immunity statutes should be available to police. In this way, organized crime--and the illegal gambling that it controls--can be affected.

Because of the scope of gambling activity, the inadequacy of local law enforcement agencies in enforcing gambling laws, and the complicity of some officials, there are not sufficient resources at present to combat gambling. Federal assistance and training are needed.

TESTIMONY OF:

• David Cook, Counsel for Federal Laws, National Wiretap Commission
JUNE 25, 1975

In the Anchor Bar case in Detroit, the city's police internal affairs officers and FBI undercover agents watched a major bookmaker give cash payments to beat patrolmen who later acknowledged that they were in fact protecting the operation. The bookmaker was heard to say that he was making payments to the entire precinct. A sergeant regularly stopped at the bar for a 2- or 3-minute visit during the first few days of each month, the surveillance team noted. The case was dismissed because then-Attorney General John M. Mitchell had failed to authorize the surveillance properly.

Law enforcement officers are either paid to look the other way or remain powerless to act without the use of wiretapping. The Anchor Bar case revealed that a bookmaker had gained access to highly sensitive police information, including duty assignments and specific enforcement strategy.

A State-run lottery cannot compete with the door-to-door service of the Detroit numbers racket or with the appeal of a bettor's being able to select his own number.

Legalization of gambling on horseracing, athletic competition, and casino gambling would be a mistake. Legalized betting on horseracing already has a corrupting influence on jockeys, trainers, and agents. Off-track athletic wagering cannot compete with the illegal system, which offers telephone service and credit arrangements, neither of which the State can afford.

Topics covered during questioning by Commission members included the following:

1. Federal prosecution. Approximately 50 percent of the caseload of the entire Federal Strike Force is gambling, and a major enforcement effort by the FBI involves gambling. The Detroit Strike Force has had a great impact on the illegal gambling operations in the metropolitan area in the judgment of informants.
2. Casino gambling. If casino gambling were legalized in all 50 States, the forbidden aspect would disappear. There would simply be more gamblers and more bettors, and there would be a significant financial drain on the Nation's economy.

TESTIMONY OF:

• Timothy Donahue, Chairman, Alcohol Awareness Program
JUNE 25, 1975

Gambling is prevalent in Detroit. Many bettors gamble to their own and their family's detriment. Disproportionate amounts of money and time are spent on gambling. The family, employer, and lending institutions who extend credit to the gambler (and hence society at large) all suffer.

There is no accurate assessment of the number of compulsive gamblers. Compulsive gambling is lower on the scale of people's problems than alcoholism or domestic strife. Rarely does a family experience alcoholism and compulsive gambling at the same time.

If social customs do not allow gambling to be made readily available to the public, problem gamblers are less likely to develop. The problem of compulsive pathological gambling is a function of social custom in that it is influenced by the public's acceptance or rejection of the activity.

TESTIMONY OF:

- Neil J. Welch, Special Agent in Charge, Federal Bureau of Investigation, Michigan Office

JUNE 26, 1975

The passage of the Organized Crime Control Act of 1970 outlawing illegal syndicated gambling has had significant success in breaking illegal syndicated gambling in Michigan.

Prior to October 1970, organized illegal gambling in Michigan was a rigidly structured multimillion dollar business, with areas of responsibility and control supervised by the "organization." The revenue derived from syndicated gambling provided the "organization" with a tremendous source of income, which was channeled into other illegal business of organized crime, including loansharking, narcotics, the taking over of legitimate business, and the corruption of governmental operations at all levels.

When the passage of the Federal act made syndicated gambling a Federal crime, the Michigan FBI attacked the "organization" at every level. To date, the FBI has utilized 240 court-ordered electronic surveillances in Michigan in its investigation of illegal organized gambling.

During the period 1970-1975, 524 illegal organized gambling figures were indicted. Of this number, 160 have been convicted and sentenced, and 210 are awaiting trial. Large profitable syndicated gambling operations in Michigan have been broken up and a smaller number of independent bookmakers now compose the bulk of illegal gambling in that State.

As a consequence of this Federal action, there is a marked increase in the investigation and prosecution of bookmakers by local law enforcement agencies. The FBI antigambling efforts in the past several years have encouraged these local prosecutive efforts and generally strengthened local law enforcement.

The enforcement of the antigambling statutes should be continued. Federal money and support must be poured into the local effort against illegal gambling. The FBI effort in Michigan proves that no organized criminal activity can survive a hard-hitting investigative effort.

Topics covered during questioning by Commission members included the following:

1. Organized crime in Detroit. FBI intelligence shows that an organized crime family is active in Detroit and that it controls illegal gambling in Michigan, with the exception of the black numbers traffic.

2. Impact of FBI activities on illegal gambling in Detroit and Michigan. The FBI has reached 100 percent of the large bookmaking syndicates in Michigan, through the use of wiretaps and the Federal syndicated gambling statutes and with the cooperation of the Michigan State Police and local law enforcement authorities.

3. Impact on organized crime. The FBI estimates that its anti-gambling activities in Michigan have greatly reduced the amount of money from illegal gambling that had been used to finance organized crime's other activities. Organized crime is finding that surveillances, wire taps, and the prosecutions against the illegal gambling industry are making it an unprofitable venture.

4. Extent of illegal wagering. The FBI estimates that illegal gambling in Detroit amounts to about \$400 million annually, including sports betting, off-track betting, and casino gambling. The figure is approximately \$285 million for the numbers traffic alone.

5. Effect of legalized gambling. Many illegal bettors have been discouraged by the attack on illegal gambling operations and are turning to the lotteries and other legalized forms of gambling.

TESTIMONY OF:

• Neil H. Fink, Michigan Attorney

JUNE 26, 1975

The legalization of all forms of gambling would ultimately prove destructive to the community because it would drain both the financial and intangible assets from all classes of people. However, the present mode of regulation and prohibition of gambling is ill-conceived, ineffective, and, in many instances, unjust.

Michigan State enforcement of local gambling laws is a total waste of manpower and court time. That organized crime has been effectively put out of business in the Michigan area is due chiefly to the intensive activity of the local Federal Strike Force and the FBI.

Some very serious deficiencies exist in the Federal gambling law. 18 U.S.C., Section 1955, the so-called "illegal gambling business" statute, fails to set forth specific guidelines by which courts and juries may determine whether a person charged with its violation has engaged in the "conduct" of an illegal gambling business, as defined by the statute. As a result, court decisions have arrived at greatly disparate results. The intent of this statute must be made clear.

Also under Section 1955, the government relies strongly upon the use of experts in its presentation of cases to explain to the jury the role each defendant is thought to have played in the alleged gambling operation. Yet the government's practice of indicting first, and only submitting the evidence to its experts for analysis after the indictment, seems palpably unfair.

Topics covered during the questioning by Commission members included the following:

1. Plea bargaining. Illegal gambling cases rarely come to trial in Detroit--despite long surveillances by the police--primarily because the plea bargains offered by the courts and by the prosecutors are so attractive--usually fines only--that a defense lawyer feels compelled to advise his clients to accept them.
2. Mandatory sentencing. Five-year probations with jail sentences for any probation violations are preferable to mandatory sentences in gambling cases.

TESTIMONY OF:

• George L. Halverson, Director, Michigan Department of State Police
JUNE 26, 1975

The Michigan State Police Department opposes any further legalization of gambling without extensive study. It is evident that legalized gambling has little or no effect on organized illegal gambling.

The last comprehensive study of illegal gambling activity in Michigan placed the gross yearly handle at \$400 million. That figure has increased substantially since the 1971 survey.

The biggest illegal gambling activity in Michigan is the numbers game, which is "crooked." The notorious Detroit number is fixed by syndicate associations. This enables the syndicate to control other illegal numbers operations.

Handbooks are the second largest illegal gambling activity in which organized crime is involved. Bookies must have the ability to lay off some of the bets so that their profit will be guaranteed. Organized crime associates are the layoff men who have enough unreported financial resources to assume these large bets.

The rise of illegal sports betting in Michigan over the past years has been tremendous. The sudden increase in betting on all types of sporting events will catapult this illegal activity to the forefront of illegal gambling.

The major problem encountered in the enforcement of gambling laws in Michigan is community apathy, which has helped to decriminalize illegal gambling in the minds of the public. With each new legalized form of gambling, public apathy increases to the point that it actually serves to justify illegal gambling.

Courts and prosecutors have demonstrated the same kind of apathy. Because of the prosecutorial burden placed on the judicial system in Michigan, illegal gambling cases are "dealt down" so frequently that no meaningful deterrent exists. It has been more than 10 years since a person has gone to prison as a result of police efforts in pursuing a gambling investigation.

It is suggested by the Michigan State Police Department that goals and procedures be developed for each enforcement level of the criminal justice system. A clear policy would serve to eliminate the damaging practice of allowing an individual's (police officer, judge, prosecutor, etc.) feelings about the importance of gambling as a crime supersede written gambling laws. Also, while the laws in Michigan are adequate to deal with illegal gambling, some important investigative

methods are lacking. It would be beneficial to the entire law enforcement community if the National Gambling Commission could suggest criteria for court-supervised wiretaps and prosecutorial immunity for witnesses. If law enforcement is to function effectively in the area of illegal gambling and organized crime, electronic surveillance and wiretapping are necessary.

If the National Gambling Commission recommends increased enforcement of antigambling laws, there should be increased utilization of multi-jurisdictional investigative efforts.

TESTIMONY OF:

- Joe Schmidt, Former All-Pro Linebacker and Former Coach,
Detroit Lions Football Team

JUNE 26, 1975

The legalization of any type of gambling on sports would be detrimental "across the board." Professional games were not constructed for betting purposes.

With the legalization of sports betting, the image of the game would be damaged and the public attitude toward the game would change. In short, the sport would be ruined.

The image of the National Football League is outstanding and should not be tarnished in any way.

Coaches are not prepared to cope with gambling, and to have to do so would add measurably to their duties.

Topics covered during questioning by Commission members included the following:

1. Betting by football players. If a player bets on himself, he is placed in a position of knowing gamblers and associating with them-- a situation that could lead to a player's shaving points if he loses a lot of money.

2. Bookmakers' odds and security efforts. Football's security personnel call Las Vegas to determine if there has been any change in point spreads on the theory that a last minute change could signify a fixed game.

3. Legalized betting on other activities. Some people feel "ripped off" by activities such as horseracing and jai alai, which exist mainly for the betting involved. If betting on sports were legalized, a similar feeling might result.

4. Point spreads. Published point spreads, while generally known by the players and coaches, are forgotten in the desire to win. Legalized gambling based on point spreads would have to affect the attitudes and actions of some players.

TESTIMONY OF:

• Leo Dardarian, Former Owner of the Anchor Bar,* Detroit, Michigan
JUNE 26, 1975

(Mr. Dardarian did not make an opening statement or present a written statement to the Commission. The following summarizes the points made by Mr. Dardarian during questioning by Commission members.)

Gambling in the Detroit area is increasing along with the population.

Bookmaking in Detroit is run by independent operators--rarely, if ever, by organized crime syndicates. Bookmakers are of necessity honest; anyone who does not pay off a bet runs the risk of being turned over to the police by the disgruntled bettor.

Legalized betting is inevitable. Not only would it provide honest employment for those now engaged in illegal bookmaking, plus employment for others, it would help Detroit's economy, especially if the city had licensed gaming rooms. Legal betting at baseball games would help insure full stadiums.

Despite law enforcement efforts, there are more bookmakers today than ever before. Illegal bookmakers, who are performing the only work they know, should be excused for past offenses and allowed to obtain licenses once gambling is legalized.

Because of the heavy sports betting on weekends, the Detroit Police Department's estimate of \$285 million wagered annually is too low.

All gambling should be legalized. It can be kept honest by a system of licensing that would provide for the loss of a license for infractions. Illegal gambling could not survive in competition with legal gambling.

*The Anchor Bar was the site of an illegal gambling operation and has been closed for 2 years. See testimony of David Cook (June 25, 1975) for additional details about the case.

TESTIMONY OF:

- Noel Bufo, Governor's Advisor on Criminal Justice; and
Administrator, Office of Criminal Justice Programs

JUNE 26, 1975

Seventy-three percent of the people voting voted in favor of establishing a Michigan lottery in May 1972. Since the State constitution banned only lotteries and no other form of gambling, only State law currently stands in the way of legalizing other forms of gambling. State law has already legalized and regulated bingo for nonprofit organizations.

Governor William G. Milliken does not think gambling will solve the problem of Michigan's economy. He believes that where there is a high level of gambling activity, there is a tendency for organized crime to move in.

The general public is also opposed to legalization of other forms of gambling such as numbers, sports event betting, and off-track horse betting, although opinion is fairly closely divided, according to a survey made for the Office of Criminal Justice Programs.

The Victimless Crime Task Force of the Michigan Commission on Criminal Justice recommended that gambling remain as it is at present in Michigan and not be decriminalized further.

Topics covered during questioning by Commission members included the following:

1. State control of gambling. Gambling such as the State lottery should be controlled at the State level for reasons of efficiency. It should also be merchandized at that level.

2. Gambling revenues. The legal Michigan games produce revenues which go to the general fund and are drawn upon by all users of the State budget for governmental programs. These revenues amount to less than 1 percent of the total State budget.

TESTIMONY OF:

- Leo Shirley, Commissioner of Racing, State of Michigan; and
President, National Association of State Racing Commissioners

JUNE 26, 1975

Parimutuel horseracing should be controlled and regulated by the State, rather than by the Federal Government. Legalized gambling on parimutuel racing is accepted in 32 States. Other States are looking at parimutuel racing as a potential source of revenue during the current economic crisis.

The State can control and regulate parimutuel racing by acknowledging it as a sport and an industry and by enacting a strong racing act. The law should provide for a strong licensing program. The State should use stringent eligibility requirements in licensing all participants. A certain degree of uniformity in these requirements with other States is desirable and useful. The National Association of State Racing Commissioners (NASRC) has been influential and effective in preparing uniform rules that may be adopted by the States.

The States should enforce the laws and rules of racing. Honest racing can be achieved by firm, direct control from the Governor to a commission. There appears to be no need for Federal involvement, since the States are capable of structuring their facilities for proper regulation.

NASRC recently established an information bank of rulings and licenses from the States, which is tied into a computer-communication system. This depository of information is expected to enhance communication among the States and provide the information necessary for the States to enforce the rules and regulations of their programs. The bank is expected to offer services similar to what Federal regulation might provide.

A State must rely on the assistance of the State attorney general for proper regulation of racing in a State. There must be close liaison and communication with local, State, and Federal law enforcement agencies as a deterrent to corruption in the sport. At this point, Federal intervention may and often does enter into State racing programs.

Federal authorities must be called on when a Federal law has been violated or when violations of the State racing laws have interstate characteristics.

Topics covered during questioning by Commission members included the following:

1. Michigan Racing Commission. The commission is composed of one person, who, along with his other duties, grants racing dates. When a track is in proximity to another instate track, creating competition, the larger track usually receives the dates requested and the smaller tracks take what is left due to higher quality racing and additional revenue. When a track is close to a track in a bordering State or country, the Michigan track is granted dates without consideration given to the dates in the neighboring State or country.

2. NASRC membership. Some of the members of NASRC own horses that race at the same tracks they regulate. This jeopardizes the sport to an extent, although some members race their horses in other States more often than they used to.

3. Off-track betting. Off-track betting could be a good program if the tracks and the horsemen got a fair share of the proceeds. Interstate off-track betting should not be allowed. Only the largest and best tracks would survive if that were allowed.

4. Organized crime. A strong State racing act and a strong licensing program could prevent organized crime from taking over racetracks.

5. Effect of racing on the community. Harness racing takes place at night in Michigan and thoroughbred racing begins after the industrial plants have let out; thus, racing does not take people away from their jobs. The majority of Michigan bettors are \$2 bettors. Any racing act should specify that tracks can be started only with community approval.

6. Other forms of racing. There is a strong lobby against dogracing in Michigan. Quarter horse racing is about to begin there. In smaller communities, quarter horses and thoroughbred horses should race at the same track.

7. Licensing. Concessionaires, mutuel employees, security personnel, and admission personnel should be licensed. The National Gambling Commission should recommend that all States have strong licensing programs.

TESTIMONY OF:

- Dave Diles, Former ABC Sports Television Employee; and Former Sports Director, WXYZ Television and Radio, Detroit

JUNE 26, 1975

Somewhere between the thinking of the pollyanna who believes that gambling on a large scale doesn't exist, and the over-zealous headline seeker who sees a criminal in every church choir, is a sensible and realistic appraisal of the gambling situation.

Based on figures supplied by several big-time bookmakers and by competent and credible police officials, it can be estimated that in Detroit and its suburbs alone, on an average football weekend betting through bookmakers and football cards exceeds \$5 million.

Law enforcement in many cases is not capable of exerting any meaningful control of illegal gambling and in many other cases, law enforcement lacks the interest to attempt such control. There has been no effective crackdown on gambling in Detroit. Gambling, on a small or large scale, organized or independent, cannot be eliminated.

Legalized gambling would create massive problems in policing and administration, and would throw great temptations in the face of a corrupt society. If gambling were legalized, in any form greater than now exists in this country, major organized crime operations would quickly attempt to move in and exercise their customary control.

Legalization of gambling and the setting up of accessible gambling operations at major sports events would further erode public confidence in the events and in the participants, confidence which already seems to be at an all-time low. To provide open casino gambling on a wide-spread scale would invite more difficulty than the system could handle.

But the refusal to license bookmakers is idiocy. Bookies are operating and flourishing anyway. It would make more sense to collect money through licensing and to take a percentage of the profits.

Topics covered during questioning by Commission members included the following:

1. Betting by players. The players in sports such as football and basketball are not naive when it comes to gambling. Gambling, however, is seldom more than a subject for light conversation.

2. Legal sports betting. Legalized sports betting will come about eventually, but U.S. Senators and Representatives who might favor such

a change would be afraid of adopting that position in front of their constituents, many of whom oppose it.

3. Victimless crime. There is no such thing as a victimless crime. A gambler's family is the victim if a gambler becomes addicted. People to whom he owes money also become victimized by it.

4. Pool cards. Pool cards are popular because most people are stupid bettors. The cards offer very poor odds. However, people love to gamble and will do so no matter what the odds are.

5. Illegal gambling. Illegal gambling and bookmaking flourish. Bookmakers do not provide a necessary function, but they provide intelligent information and accessible betting on a necessary evil. Bookmakers are heavy bettors.

6. Sports' double standard. There is a double standard in every sport. Owners of sports teams bet substantial amounts of money, yet players are warned not to bet. Sports commissioners are employed by team owners and are often hired because of their malleability rather than their expertise or ambition.

7. Government supervision. The government should not step in to separate the owners of the franchise from the supervision of the sport group. A violent sport such as boxing, however, should be policed and supervised, either by the government or by a boxing commission.

TESTIMONY OF:

• Donald B. Canham, Director, Inter-Collegiate Athletics and
Physical Education, University of Michigan

JUNE 26, 1975

There is a move in the Nation to enact laws that would make it legal to bet on amateur team sports. Those in collegiate athletic administration feel it would be disastrous if gambling on college football and basketball games were legalized.

The basketball gambling scandal of the 1950's brought about changes that were not in the best interests of the youngsters involved or of the sport itself. All summer tournaments and leagues were eliminated. All college games were restricted to the campus or to arenas that are used for college competition. The length of the season and the length of practice time were also restricted.

Gambling on team sports would threaten the various sports themselves. Costly and complicated surveillance procedures would be needed to prevent coaches and players from being pressured to supply inside information to gamblers. There would also be great pressure for inside information on groundskeepers, trainers, equipment operators, and business managers. If gambling were legal, detailed Federal or State reports on all aspects of the team would be mandatory.

Among sports fans the emphasis would switch from merely winning to winning by more or less than the point spread in certain instances. Collegiate sports are now family-oriented--a situation that would be changed with legal sports gambling.

If gambling were allowed on team sports, the pressure on officials in athletic contests would be tremendous. Officials would be under suspicion on every decision made. The high quality of officiating that now exists in the National Collegiate Athletic Association would deteriorate rapidly as many outstanding officials would refuse to work under the conditions legal gambling would promote.

Legalized gambling may increase revenue to the State, but is it worth the price if amateur sports is changed or harmed? Illegal gambling would not be eliminated. Legalized gambling would not cover the cost of surveillance and also take care of the increased costs that are occurring in athletics today. The monies generated would be public money, and States would distribute these funds to educational institutions--not to athletic departments or various teams.

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*Accompanied the witness.

TESTIMONY OF:

• Mike O'Callaghan, Governor of Nevada
AUGUST 18, 1975

The State revenues realized as a result of Nevada's various gambling taxes and license fees amounted to more than \$82 million in the past fiscal year, or 47 percent of the total revenues collected in the State's general fund. Neither the national economic recession nor the energy crisis has affected the growth of Nevada gaming revenues. Approximately 25 percent of Nevada's total labor force is employed in the gaming industry and related tourist businesses. An additional 25 percent of the labor force is indirectly dependent upon the gaming industry.

No investor in this country today has to face the personal and financial scrutiny that every investor in Nevada's gaming industry undergoes. In addition, no other business is as stringently regulated as the gambling business in Nevada. The Nevada Gaming Control Board, with the assistance of the State legislature and in cooperation with the gaming industry, has brought the board's investigative, enforcement, and audit regulations and procedures to an unequaled effectiveness. The gambling control mechanism has taken numerous successful measures to insulate itself from political pressure.

Legalization of casino gambling by other States would not significantly affect Nevada. The State's 40 years of experience in regulating gambling, combined with the experience and huge capital investments of its privately owned industry, give Nevada a strong business foundation and the ability to handle any competition that may arise, including that from nearby California.

It is not possible to predict the effects of legalized casino gambling in other States. Nevada has certain characteristics that make it unique. It has a small population that is geographically isolated. These two factors have made gambling easier to control. The State's small population has lessened Nevada's reliance on its own citizenry for the gambling dollar. Careful planning and modern means of transportation have enabled the State to overcome any problems that might be caused by its geographic isolation. The advantage of this relative isolation is that it has reduced the amount of gambling by citizens outside the State who can least afford to gamble. These same people could easily gamble if the facilities were located in their own or nearby cities.

Topics covered during questioning by Commission members included the following:

1. Lotteries in Nevada. Nevada does not need a lottery. Lotteries are more difficult to control because the tickets invariably cross State lines, and this creates various problems.

2. Horseracing in Nevada. Nevada has horseracing but it is not successful financially. People who come to Nevada are looking for a different type of entertainment--one that they cannot get in their own States.

3. Casino gambling in other States. Nevada regulations would prohibit a casino licensee from opening a casino in any other State even if that State had legal casino gambling. This is because expertise in the casino business is extremely limited, and Nevada does not wish to lose or share this expertise.

4. Gaming Commission makeup. Of the five members of the Gaming Commission, no more than three can be of the same political party. This is a good system. The expertise of the individuals on the Commission is more important than their political affiliations.

5. Nevada's economic health. Nevada is an economically healthy State and has been able to fund many improvements in services to its citizens.

TESTIMONY OF:

● Robert List, Attorney General of Nevada*
AUGUST 18, 1975

There are very few prosecutions for gambling-related offenses in Nevada. In fiscal year 1974, there were only four gambling offenses in which convictions were obtained. In the 5-year period from 1970 to 1974, there were only 15 gambling offense convictions statewide. The overall crime rates in Reno and Las Vegas are higher than the rates for similar-size cities in other States. But in making such comparisons it is necessary to take into account the around-the-clock lifestyle of Nevada cities and the fact that on any given day a significant number of people in these cities are tourists. About 28 million tourists visit the State each year. Among these visitors are people who come for the express purpose of committing crimes, either against other tourists, or against the casinos. Forty-two percent of all persons convicted of felonies or gross misdemeanors in Nevada are nonresidents.

Only a small percentage of the crimes committed in Nevada are perpetrated by people who have lost all their money gambling. There has never been a study done to show precisely the percentage of offenders who have in some way been affected by legalized gambling, and therefore it is very difficult to make a correlation between gambling and crime rates.

The price that Nevada pays for its higher crime rates in terms of higher workload for its criminal justice system and higher law enforcement, prosecution, courts, and corrections costs are absorbed primarily by gambling and sales tax revenues, which are paid primarily by those who have increased the tax burden, namely visitors. In any event, these costs would exist whether or not Nevada had legalized gambling. They are largely a byproduct not directly of gaming but of the State's being a tourist attraction for many forms of outdoor recreation throughout the year.

The quality of Nevada law enforcement is very high. The State has never had a corruption case at any level involving gambling. This is due to the nonpolitical nature of gaming controls, the high caliber of those who regulate the industry, and the high degree of responsibility assumed by the industry itself.

Topics covered during questioning by Commission members included the following:

S.
*Attorney General List is a member of the National Gambling Commission.

1. Arrests versus convictions. During the 5-year period from 1970 to 1974, there probably were as many as 50 arrests for gambling violations, 20 to 25 prosecutions, and approximately 15 convictions.

2. Illegal casino gambling. Because legal gambling is so readily available, there is virtually no illegal casino-type gambling in Nevada.

3. Organized crime. Nevada has used every conceivable method to determine whether or not organized crime has been involved in casino operations in recent years. Organized crime has no influence whatsoever in any phase of legalized gambling in Nevada today. Loan-sharking is not a problem either; when isolated cases are uncovered, they are quickly routed out.

4. Attitude of law enforcement. Contrary to the situation elsewhere in the country, where there is almost a callousness or disregard on the part of law enforcement toward illegal gambling, Nevada law enforcement officials are highly aware of the need to protect the integrity of the State by assuring that no illegal gambling activity takes place.

TESTIMONY OF:

• William A. Bible, Deputy Administrator, State of Nevada
AUGUST 18, 1975

Nevada's current operating budget and the operating budget for fiscal year 1976-77 are balanced. The amount of outstanding debt is low in relation to the property tax base. The sales tax rate is moderate in comparison with the rates of other States; and neither individuals nor corporations are taxed on their incomes. This financial soundness can be attributed both to the planning and foresight of Nevada's government officials and to the remarkable stability of the State's revenue sources.

In fiscal year 1973-74, the State's general fund (the major operating fund for State government) collected \$148.5 million in taxes, license fees, and other revenues.

Direct gambling levies, as collected by both the State and Nevada's 17 counties, contributed more than 37 percent of the State's 1973-74 general fund income. The casino entertainment tax yielded \$9.7 million to the State's general fund. Indirectly, a portion of many of the State's other revenues, notably the sales and use tax and liquor taxes, can be attributed to business increases generated by gambling activity. The Federal Slot Tax Credit is the State's only major gaming revenue that is both outside of the general fund and is statutorily earmarked for expenditure in specific areas.

Twenty-seven percent of Nevada's jobs are directly related to the provision of services in hotels, casinos, and other recreational areas. Indirectly, those involved in gaming demand goods and services in all other sectors of the economy, thus creating additional employment opportunities.

In recent years, Nevada's gaming revenues have been growth-oriented and have shown remarkable stability in periods of economic decline. This is not to imply, however, that the industry is recession-proof, and that a protracted economic decline or a much more severe energy crisis would not have a negative economic impact on Nevada's tourism and gaming industry.

Topics covered during questioning by Commission members included the following:

1. Budget surplus. The State anticipates a 1974-75 budget surplus of about \$23 million, which is approximately 10 percent of the current operating budget.

2. State income tax. Nevada has no plans to institute a State income tax.

TESTIMONY OF:

• Peter Echeverria, Chairman, Nevada Gaming Commission
AUGUST 18, 1975

In any consideration of gambling in Nevada, one must take into account the fundamental social acceptance that has developed over the past 44 years toward gambling and the decades of acceptance it enjoyed prior to 1931. The social acceptance of the gambler is almost absolute in Nevada. Gamblers operate the finest hotels, restaurants, and theaters in the world. They are skilled professional businessmen who use the latest accounting and business methods.

It is true that 25 years ago gambling in Nevada was conducted in certain areas by persons who today could not obtain a license, but the sale of certain business interests, the introduction of new administrative procedures, and even a few funerals, have helped clean up the gambling industry.

Nevada gambling has the finest administrative system in the country. The Gaming Control Board has a full-time staff headed by three individuals--one with an accounting background, one from law enforcement, and one with an administrative background. They head a permanent staff of approximately 100 people and an undercover staff of an undisclosed number that is constantly fluctuating. The board's investigative procedures are among the finest in the country. Final licensing is done by the Gaming Commission, which consists of five members who--except for the chairman who receives \$500 per year--are unsalaried.

If the Gaming Control Board recommends denial of a license application, it requires a unanimous vote of the Gaming Commission to grant that application. This dual system of approval gives each license applicant a complete and thorough double analysis.

Gambling in Nevada is unique; it could not be duplicated in any other State in the form that exists in Nevada. Nevada views gambling as recreational activity. The odds of winning are clearly delineated and no "skullduggery" is needed.

Topics covered during questioning by Commission members included the following:

1. Principal concerns of the Gaming Commission. The principal concern of the Gaming Commission is always the source of funds--where the money is coming from that is used to finance casinos. The commission has an opportunity to examine the source of each dollar going into each licensed establishment. If any member of the commission questions any item regarding a loan to a licensee, the commission gives the licensee

30 to 90 days to return the money and secure a loan from another source. Other problem areas have included junkets, which are now under control, and cheating by casino employees.

2. Licensees. Anyone who has an ownership or managerial interest or can affect policy decisions in a gambling establishment must be licensed.

3. Black book. The Gaming Commission has statutory authority to maintain a list of persons who are to be banned from the premises of all casinos. Those listed are generally persons with organized crime affiliations. A person listed in the black book may demand a hearing on his case. In one instance, the Dunes Hotel was fined \$20,000 for allowing a certain individual access to its hotel premises. The primary consideration in establishing the black book system was to preserve the State's image of integrity in the gambling field. A second consideration was to protect the licensee.

4. Part-time commissioners. The present system, in which Gaming Commission members serve on a part-time basis, is adequate.

TESTIMONY OF:

• Philip P. Hannifin, Chairman, Nevada State Gaming Control Board
AUGUST 18, 1975

The State Gaming Control Board is composed of three full-time members, one of whom is designated as chairman. One member must have an administrative background, one must be an accountant, and one must have training or experience in the field of investigation, law enforcement, or law. Board members are appointed by the Governor and serve 4-year terms. They must be full-time State employees with no outside business interests.

The board has the following responsibilities:

1. Conducts background investigations on applicants for gaming licenses.
2. Enforces gaming laws and regulations.
3. Collects gaming taxes.
4. Inspects and examines premises where gaming is conducted or gaming devices are manufactured and sold.

The board has five divisions: investigation, enforcement, audit, tax and licensing, and securities and economic research. The investigations division conducts all field investigations necessary for the proper processing of applications for gaming licenses. The enforcement division is responsible for protecting the honesty of the games as well as protecting gaming establishments from cheaters. Enforcement agents also investigate customer complaints. The audit division conducts both regular and unscheduled audits to insure that the State gets a proper accounting of all revenues. It also monitors internal controls and security measures and enforces the complex accounting regulations that pertain to the handling of large amounts of cash. The tax and licensing division issues and updates licenses as new games are added or deleted. It also collects all gambling taxes, fees, and penalties. The securities and economic research division collects, analyzes, and publishes financial information relating to the gaming industry and maintains a reporting system on the publicly traded corporations that have casino interests.

As part of the investigation and licensing process, a number of problems may arise that can be difficult to overcome. Some of the problems concern due process, for example, the handling of confidential informants, right to counsel, and self-incrimination privilege. In attempting to maintain a rigid regulatory system on a constitutional basis, it becomes difficult to deal with members of organized crime groups who can afford the best legal and financial advocates. Another

constitutional problem involves freedom of association; since criminal statutes do not define "organized crime" it is sometimes difficult to prove that an individual is a member of an organized crime group. Another problem is that experienced gamblers often have backgrounds in illegal gambling when they apply for licenses. Their backgrounds must be weighed against the kinds of expertise they may bring to a gambling venture. Sometimes businessmen associate with unsavory individuals, and it is necessary to make a distinction between a harmless association and one that would damage the image of Nevada or that may indicate hidden interests.

The State Gaming Control Board gathers intelligence and uses undercover agents and informants to detect cheaters. The board disseminates this information to the casinos and to law enforcement agencies around the State. The enforcement division attempts to keep abreast of all the latest methods that cheaters may use. Cheaters are often skilled sleight-of-hand artists, and detection often requires the assistance of informants. The board always is concerned about the possibility of libel and slander suits being brought against it for disseminating information about suspected cheaters.

Topics covered during questioning by Commission members included the following:

1. Ability to regulate. The State of Nevada can regulate gambling. It has the option to make exceptions to certain regulations in specific cases that it deems appropriate, but this does not detract from its ability to exercise the necessary controls.

2. Investigation of applicants. Every person who makes an application to invest money or hold an equity interest in a gaming establishment must submit a full disclosure of his personal history as well as his business and financial history. The investigation begins after all the required information has been submitted. Investigators make personal, business, law enforcement, and credit reference checks to trace the applicant's history from his 21st birthday on. The applicant's personal history is as important as his business history. If the applicant is reputed to have organized crime affiliations, investigators attempt to determine the nature and extent of these affiliations or whether in fact they exist at all. There are two types of hearings--a public hearing that is conducted for each applicant and a private hearing that is conducted in cases where there is doubt about the applicant's suitability for licensing. At the public meeting, the applicant has the opportunity to rebut any information he feels is inaccurate, and he may be represented by counsel. The costs of the investigation are borne by the applicant. In one case, an exceptionally long investigation and hearing resulted in a cost to the applicant of \$160,000.

3. Skimming. Skimming, the process by which casinos fail to declare some of their gambling income, has never been a problem for the Gaming Control authorities and does not exist in any substantial degree. There has never been a successful skimming prosecution. In one case, criminal charges were dismissed and, in another, charges against defendants were thrown out of Federal court.

4. Counting operations. Most of the larger hotel casinos employ sophisticated methods for insuring the integrity of the counting operation. They use videotape cameras, one-way mirrors, and watchers. The Gaming Control Board conducts surprise count room visits. In one case, because State agents were denied access to the count room, the board is asking that the casino be fined \$50,000.

5. Integrity of casino employees. Every person involved in the actual conduct of gambling must have a work permit. The permit is obtained from the local law enforcement agency, which conducts a criminal background check. This system is used to screen out those who may be prone to cheating.

6. Relationship with government agencies. The Gaming Control Board has an excellent working relationship with the Federal Bureau of Investigation and the Securities and Exchange Commission. There is some problem, however, with the Internal Revenue Service, because that agency claims that it is prohibited from giving tax information to the Gaming Control Board. The board, on the other hand, provides a great deal of information to the IRS. The National Gambling Commission should determine if there is a way to bring about a freer flow of information from the IRS to the Gaming Control Board because this would considerably improve the board's ability to regulate the gambling industry.

7. Bookmaking tax. The 2-percent excise tax on gross wagers should be eliminated. The actual purpose of the tax is not to raise revenue but to provide the government with an added opportunity to prosecute illegal bookmakers. The \$500 fee that bookmakers must pay for each person who takes bets should also be eliminated.

8. Interstate transmission of wagering information. The ban on interstate transmission of wagering information seems unfair. A person in Ohio, for example, who wishes to place a bet in Nevada, where it is legal, should be permitted to use the telephone to make that bet.

9. Prostitution and gambling. The Gaming Control Board recommends denial of a gaming license to any establishment that is also involved with prostitution. There are many prostitutes in Las Vegas, but they are not connected with the casinos. If it can be established that a casino tolerates prostitutes soliciting on its premises, the Gaming Control Board will call for disciplinary hearings before the Gaming Commission. Prostitution has no place in the gambling industry.

TESTIMONY OF:

• Warren Nelson, Owner, Club Cal-Neva
AUGUST 18, 1975

No business is controlled more effectively than gambling in Nevada. No person in government or in any other business comes under closer scrutiny than do the people in Nevada who apply for a gambling license.

Many men and women use the gambling industry as a means of financing their education. Judges, nuclear scientists, doctors, and lawyers have worked as gambling employees to pay their college tuition.

In 1965, gaming industry representatives organized the Gaming Industry Association of Nevada, Inc., to handle legislative and public relations matters from a central source. The association provides a meeting ground for industry representatives to discuss issues of importance to them. The association affords the industry an opportunity to police itself.

At various times since gambling was legalized in Nevada, agencies of the Federal Government have attempted to interfere with casino operations. This has been particularly true of the Internal Revenue Service. The IRS is not attempting to harass the industry, but it does not understand the industry and will not take the time to send agents to learn how the gambling business is conducted.

The incidence of such practices of skimming and cheating and the influence of organized crime in Nevada gambling businesses have always been exaggerated, but today, with the current control mechanisms, skimming and cheating are almost nonexistent, and the influence of organized crime has been completely eliminated.

In 1973, the Governor of Nevada created a Gaming Policy Board consisting of seven members--two from the gambling industry; three from other businesses; the Governor; the chairman of the Gaming Commission; and the chairman of the State Gaming Control Board. The Gaming Policy Board has helped the industry in several ways, but primarily by demonstrating that it was feasible to allow casinos once again to operate sports pool and horserace betting.

The 2 percent excise tax on gross wagers and the \$500 occupation stamp should be eliminated. These measures are ineffective in combating illegal gambling but are succeeding in hurting the legal operations.

The gaming industry has a bright future; however, inflation has taken its toll. With gambling, the percentage of profit is built into the system and cannot be changed. The house percentages on most of the games are the same as they were in 1931. The only way a casino can meet

its rising costs is to increase its volume of business. Also, the present tax structure is not ideal and could be modified somewhat.

Topics covered during questioning by Commission members included the following:

1. Casino employees' union. There is no place in the gambling business for unions. Unions would cause the casinos to lose control over who is hired and fired.

2. Tax in winnings. The State has the right to tax gambling winnings, but in order to determine how much a person has won it is necessary to know how much he has lost. This is impossible to determine in many of the games.

3. Collectability of gambling debts. Gambling debts should not be collectable in court. Changing the current system would hurt the image of the casinos, particularly if they had to resort to taking peoples' homes and property as payment for gambling debts. The casinos have developed considerable expertise in determining how much credit to extend to customers. When the credit system is operating properly, there is no need to sue for payment. The State has a central credit system that has 30 million names on file.

TESTIMONY OF:

• John Ascuaga, President, Sparks Nugget, Inc., Sparks, Nevada
AUGUST 18, 1975

The Sparks Nugget opened in 1955 as a small casino, bar, and restaurant with 60 employees. Today it employs approximately 2,000 people. Gambling has not been the only reason for the success of the Nugget; the entertainment and restaurant facets of the business also have been important. All of the casino-hotel's operations are interdependent, but entertainment is the most costly and the most dependent upon the other operations.

In order to succeed, a casino has to continuously expand its volume of business. This is why the casinos conduct so many promotional campaigns throughout the year, including golf, food, and entertainment promotions. The most unusual promotional venture that the Sparks Nugget has sponsored was a Hereford bull sale that took place on its Circus Room stage.

Like any other business, casinos operate in order to make a profit. It is only logical, therefore, that the odds are in favor of the house. But some people do win. Studies have shown that it costs the average tourist approximately \$3.00 an hour to gamble in a casino at today's prices. This is a reasonable price to pay for entertainment. The casinos attempt to discourage people from gambling more than they can afford to lose.

If casino gambling were made legal in other States there would not be enough expertise available to operate the various gambling-related businesses. Even in Nevada it is often difficult to locate the required number of qualified personnel. People are needed who know not only how to operate casinos but who are also familiar with cost accounting; purchasing; labor management; food, bar, and service operations; and advertising and promotion.

The Nugget has one of the lowest employee turnover rates in the State. Nugget employees have a profit-sharing plan and a group insurance plan. The Nugget's Golden Rooster Room is staffed almost entirely by students. Since the Nugget opened it has given scholarships to 72 university students.

Topics covered during questioning by Commission members included the following:

1. Excessive gambling by employees. Excessive gambling by employees is not a problem at the Nugget.

2. Collectability of gambling debts. Gambling debts should not be collectable in court.

TESTIMONY OF:

• Bill Harrah, Owner, Harrah's Club, Reno, Nevada, and Lake Tahoe,
Nevada

AUGUST 18, 1975

The Harrah family has been in the gambling business since it was made legal in 1931. Since that time, the State of Nevada and the gambling industry have come a long way, and each year there is improvement in the manner in which the industry conducts itself, in the State's controls, and in the success of the gambling business.

The same practices, ethics, and principles that make any business successful are necessary for gambling as well. Nevada gambling is subject to the same mistakes, misconceptions, and misdirection as any other business. Since gambling was a new industry, with nothing preceding it as a model, it could be expected to make more than its share of mistakes.


Today Harrah's employs 6,400 people, many of them college students who first worked for the company during summer vacations. It has 42 separate departments, and more than half of the 6,400 employees work in areas entirely unrelated to gambling. The days when a casino could operate strictly as a casino are gone.

Other States should not view casino gambling as the answer to all of their budgetary problems. Nevada has created a sophisticated adult Disneyland that no other State can duplicate.

Harrah's introduced many new ideas to the gambling industry, such as a 40-foot air curtain and a 44-foot door that could not be closed; winter gambling at Lake Tahoe; and free bus transportation from California.

Various highly publicized incidents involving the influence of organized crime in Nevada gambling operations have given the industry a bad image that still persists in some quarters despite the fact that organized crime is no longer a factor in Nevada. Financial institutions, in particular, have shied away from investing in Nevada. But the gambling industry has begun to take a more active role than it did in the past to counter the various false claims that are made about it. Since Harrah's became a publicly owned company in 1971, it has conducted a continuing campaign to convince financial interests and security analysts that Harrah's, and the industry, have come of age.

Topics covered during questioning by Commission members included the following:



1. Public ownership. First, Harrah's was listed on the American Stock Exchange. Because it was involved in the gambling business (as opposed to, for example, the laundry business), many more requirements were imposed before the American Exchange listed it. The subsequent process of becoming listed on the New York Stock Exchange was less complicated.

2. Bookmaking. The 2 percent Federal excise tax on gross wagers and the \$500 occupational stamp should be eliminated. The sports and race books at Harrah's in Reno and Lake Tahoe are successful and well received.

JOINT TESTIMONY OF:

- Joseph E. Dini, Jr., Owner, Joe Dini's Lucky Club, Yerington, Nevada; Nevada State Assemblyman; and
- Harold Larragueta, President and Chief Executive Officer, McGee Enterprises; Owner, Winners Club, Winnemucca, Nevada

AUGUST 18, 1975

Statement of Mr. Dini

The number of small casinos in Nevada is declining. There are now only one or two nonrestricted licensees in each small community. Since small communities do not have a tourist trade, the casinos depend almost entirely on the local populace for business. With the same people playing day after day, the number of people gambling can only decline, no matter how low the house percentage is. Nevertheless, some of the small casino operators continue to stay in business because it is a family tradition and they are reluctant to break that tradition.

The Nevada Gaming Commission and the Nevada Gaming Control Board, while attempting not to overburden small casinos with the bookkeeping and audit control requirements that are imposed on the larger operations, still maintain rigid and stringent control of actual gambling operations through constant checking by undercover agents.

The Federal Government imposes a \$250 yearly fee on persons operating slot machines. Several years ago a Nevada congressional delegation succeeded in having \$200 of the \$250 fee refunded to Nevada. This money has helped improve the State's educational facilities. Nevada receives \$10 million per year in slot machine rebates. The balance of the \$250 fee--\$50--should also be returned to the States that have legalized gambling.

From the legislative standpoint, Nevada has an effective gambling statute that is being administered by a capable and efficient organization that is not subject to the whims of politicians and other influential persons. The people of Nevada are proud of the image the gambling industry has created for the State.

Statement of Mr. Larragueta

In 1959, McGee Enterprises bought the gaming rights at the Star Broiler, which at that time consisted of 35 slot machines, two blackjack games, and one crap game. In 1969, the company bought the bankrupt Sonoma Inn in Winnemucca for \$1 million and changed the name to Winners Inn. Gaming at the Winners Inn at that time consisted of three blackjack tables, one crap game, and one keno game. The Winners Inn today has two additional blackjack games and 120 slot machines. The Star Broiler has a total of five blackjack games, one crap game, one keno

game, and 126 slot machines. The two clubs employ more than 400 people. This operation is still relatively small and family-owned. The clubs are run informally and are totally dependent upon repeat business. Winnemucca is becoming a year-round tourist attraction.

Topics covered during questioning of Mr. Dini and Mr. Larragueta by Commission members included the following:

1. Internal Revenue Service. The IRS has not been a problem to these casinos. Joe Dini's Lucky Club has not been audited since 1967. The McGee Enterprises clubs have undergone only routine audits.

2. Casinos in small cities (Mr. Dini). Ultimately, a casino in a small community will not survive unless the community grows, or unless a main highway is built through it and it can attract tourists. But Yerington is not interested in promoting tourism. There are only about 40 or 50 small casino operations left in the State, most of which are located in northern and western Nevada.

TESTIMONY OF:

• M. G. Vernon, Vice President, Sea & Ski Corporation, Reno, Nevada
AUGUST 18, 1975

The legalized gambling atmosphere of Reno and northern Nevada has not adversely affected the performance, attendance, or moral character of Sea & Ski employees. On rare occasions, an employee has required financial assistance because of excessive gambling, but in the past 15 years no employee has ever quit his job or been fired as a direct result of gambling. The employee turnover rate at Sea & Ski is minimal. The absentee rate of less than 2 percent is far better than average.

The overall tax structure in Nevada is encouraging for industry. One of the most significant benefits is the Nevada Freeport Law: The exclusion of inventories destined for interstate transportation from property taxes was an important inducement for Sea & Ski to move to Nevada from San Francisco.

All Nevada citizens enjoy the benefits of living in a State that has no State income tax. Nevada school systems, police and fire protection, and highway systems are excellent. The taxes derived from gambling revenues have been a major factor in providing Nevada citizens with a high standard of living at minimal personal tax expense.

Sea & Ski employees generally favor the current legalized gambling structure in Nevada. They feel that a drastic economic disaster could occur if Nevada's legalized gambling statutes were to be changed.

Legalized gambling in other States does not seem feasible. Nevada has had many years of experience with legalized gambling in a lightly populated State. It is doing an excellent job of policing and controlling gambling, but this degree of success could not be achieved in the more densely populated areas of the country.

TESTIMONY OF:

• Jerome Blankinship, Minister, United Methodist Church
AUGUST 18, 1975

(Mr. Blankinship's testimony represents his personal beliefs rather than the views of any of the religious or professional groups to which he belongs.)

The Bible makes several references to gambling, most of them negative. Yet the Bible contains no absolute prohibition against gambling. In fact, religious matters are sometimes decided by "casting lots."

Many traditions accept gambling as a natural activity that needs to be controlled for the maximum good of society. Others, generally the religiously conservative groups, see gambling as a serious evil to be resisted at all costs.

By and large, the dangers of legalized gambling are not so real as the antigambling forces would have one believe, but the "no-problem-at-all" attitude of some gambling advocates is equally unrealistic. Gambling, whether legal or illegal, can be a problem.

The issue of gambling involves a classic dilemma for which both religious and secular leadership have long struggled for an answer. Should society harness mankind's "bent toward selfishness"--his desire to get something for nothing--so that it can produce some beneficial side effects? Or should society moralize and legislate against these selfish tendencies? There are no simple answers to these questions.

Nationally, the United Methodist Church speaks against legalized (and illegal) gambling. But in Nevada, United Methodism has used its energies to control gambling, to stop its proliferation, to insure that it remain honest, and to provide aid for its victims. Religious leaders in Nevada seldom advocate the total dismemberment of the gambling structure. The religious community in Nevada recognizes that legalized gambling is here to stay and that it is not quite the menace it was once thought to be. It also recognizes that gambling must be controlled. Churches in Nevada have supported tougher controls and higher taxes on the gambling industry.

The problems created by gambling are not necessarily solved by keeping it illegal. If gambling becomes legal, a portion of the revenues it generates should be used for the rehabilitation of its victims--compulsive gamblers and those who lose all of their money gambling. Each community that considers legalizing gambling should carefully weigh its consequences.

Topics covered during questioning by Commission members included the following:

1. Family breakdown. Family breakdown is not confined to any one part of the country. It does not seem to be a greater problem in Nevada than elsewhere.

2. The Roman Catholic church and gambling. The Roman Catholic Church takes a somewhat different approach to gambling from the Protestant churches. The Roman Catholic Church believes that if gambling is intended to be no more than a form of recreation or a means of raising money for charity it is acceptable.

3. Gambling taxation. The churches in Nevada have supported increased gambling taxation partly as a means of providing additional control over the industry and partly to keep gambling within the casino orientation and out of drugstores, barbershops, etc.

TESTIMONY OF:

• William H. Briare, Mayor, Las Vegas, Nevada
AUGUST 19, 1975

It is ironical, and interesting, to note the vast change in attitude toward gambling that has occurred in recent years due to momentous changes throughout the Nation's social and economic structure. The fact that numerous sociologists, economists, and government officials are presently reevaluating gambling reflects this change in values and, more significantly, the economic plight of government entities. The economic aspects of gambling now appear to outweigh all other considerations.

The phenomenal growth and economic development of the State of Nevada, and particularly of the Las Vegas area, are due solely to tourism and its economic spinoffs in supporting local businesses and industries. Gambling has given Las Vegas a major economic boost as a growing center of trade and commerce for a vast region of the Southwest. Despite the high rate of unemployment in the Las Vegas area, the region suffers far less from the recession than most population centers due to the "recession-proof" nature of the gaming industry. The image of Las Vegas as a "sin city" has given way to a look of respectability and economic stability that has attracted the notice of other governmental
"lies.

Gambling has been good for Las Vegas; therefore, one might assume that it would prove beneficial to any other city or State. This is a fallacy that will be detected in any serious study on gambling and its economic and social ramifications.

The unique geographical position of Nevada has significantly facilitated the success of legalized gambling in the State. The cities of Reno and Las Vegas are situated within a short distance from the major population centers of California, from which a majority of Nevada's tourist trade originates. A gambling industry of the magnitude that exists in Nevada cannot depend on its local residents for support.

Las Vegas has a high crime rate, but the constantly increasing crime rate is a problem nationwide. The high crime rate in Las Vegas is attributable to several factors: (1) Las Vegas is a 24-hour city; (2) there is a high percentage of tourists year-round; and (3) there is gambling. Las Vegas suffers from the same sociological problems that are common to urban areas throughout the country and that have little to do with the gambling industry. And it is thought by some that it is these sociological problems, rather than gambling, that are responsible for the high crime rate.

The theory exists that legalized gambling will stop, or greatly reduce corruption, and, further, that it should be legalized because people will gamble regardless of its legality. The mere legality of gambling, however, does not automatically reduce corruption. Legalized gambling could, in fact, induce corruption, depending on what controls and regulations are promulgated and how rigidly they are enforced. Anyone who would consider legalizing gambling solely on the assumption that it will occur regardless of its legality must proceed with the utmost caution.

Las Vegas has prospered because of its ability to attract outside investment and tourist dollars. It would be quite a different matter if a city or State had to rely on its own citizens to support its gambling industry.

Topics covered during questioning by Commission members included the following:

1. Gaming industry and local economy. Historically, the effects of inflation or depression do not affect the city of Las Vegas or the State of Nevada as much as they do the rest of the country. Everybody who lives in Las Vegas is affected by the gaming and tourist industry.

2. Gaming industry and local politics. At present, none of the members of the City Commission, the County Commission, or the school board are employed in the gaming industry. The industry does not dominate local affairs.

3. Gaming industry and crime rate. The high rate of crime in Las Vegas is not due to gambling, but to the same sociological problems that affect most urban areas in the country.

TESTIMONY OF:

• James Santini, U.S. Representative at Large, Nevada
AUGUST 19, 1975

Regulation of gambling traditionally has been the responsibility of State and local governments, but the Federal Government has intervened when it thought that State and local efforts to control certain gambling practices were not successful. The private sector should cooperate in legitimate government law enforcement exercises, but the Federal agencies involved must also determine if their practices are necessary and effective.

The Internal Revenue Service has exhibited little ability in tracing the activities of its agents in Nevada. It cannot provide any authoritative information concerning the average number of summonses issued to Nevada gaming establishments each year, or the purpose and frequency of out-of-State IRS agents visiting Nevada:

We do not have specific information on the number of out-of-state IRS agents visiting Nevada; nor can we make a general statement as to the purpose of their visits except to state that such agents would be in Nevada seeking significant information relevant to official ongoing tax investigations or examinations. As to the success or failure of these visits, we do not have definitive answers.

[Letter from IRS Commissioner Donald Alexander.]

There is no way that the IRS in Washington could know whether any one agent had been guilty of investigative abuse.

Two possible conclusions may be drawn from this revelation: (1) The IRS has the information but is unwilling to collate the data; and (2) it is engaged in some very costly, shoddy, and wasteful administrative practices that reveal a lack of an organized central system of keeping track of its agents' activities throughout the country. This is a serious problem which compels immediate remedy.

The IRS has sent out a memorandum to all its district offices instructing them to notify the IRS offices in Reno and Las Vegas when there are planned visits to Nevada. In addition, the director of the IRS in Nevada has asked gambling industry accountants to furnish a list of all IRS summonses received this year, and to be notified of any visiting IRS agents and requests for information that the accountants felt were improper. But why should it be the responsibility of the hotels to inform the IRS of its own practices and activities? The IRS should know how many summonses were issued--and why--to Nevada casinos; how much was spent for these investigations; how many IRS agents visit Nevada each year; and the purpose, success, or failure of these visits.

The Federal Government cannot be allowed to extend its arm any further into the gaming and tourist industry in Nevada. Citizens of Nevada cannot continue to permit the practice of indiscriminate duplication and investigation. There exist at present no methods whereby the State can measure whether it is the victim of excessive and oppressive investigative tactics.

There is a high degree of sensitivity within the gaming industry concerning prospective attempts to punish or intrude legally into the gaming industry in Nevada. The Congressman's office is deeply concerned with any legislation designed to handicap or erode Nevada's gaming industry, the economic lifeline of the State.

TESTIMONY OF:

• R. G. Taylor, President, Las Vegas Chamber of Commerce
AUGUST 19, 1975

The promotion of gambling and tourism is and always has been a civic enterprise of the people of Las Vegas, and is the major activity of the greater Las Vegas Chamber of Commerce. Since 1945, gambling has been the major industry of Las Vegas.

In that year, \$85,000 was raised by the local community to promote the attractions in Las Vegas. This "Livewire" fund still exists today and is used for the same purpose. The Las Vegas News Bureau, a division of the Chamber of Commerce, spotlights the attractions available in Las Vegas through the dissemination of brochures, publicity, and advertising designed to bring visitors to Las Vegas. Such promotional campaigns now attract foreign visitors to Las Vegas in increasing numbers. Visitors leave Las Vegas with a favorable impression and wish to return.

Those who come to Las Vegas to gamble know that all aspects of the industry are completely honest. This favorable image of Nevada gambling is a result of the work of the State regulatory agencies, the Gaming Commission, the Gaming Control Board, and the Gambling Policy Board, as well as the owners and operators of the gambling establishments.

The hotels and casinos conduct a continuous promotion and publicity campaign. In 1974, the hotels spent almost \$19 million for advertising and promotion utilizing all types of media.

The incomparable entertainment available in Las Vegas is a major factor in the success of the tourism industry in Las Vegas. There are casinos throughout the world, yet only in Las Vegas can be found the unsurpassed entertainment offered around the clock.

Years ago, certain corporations and professional associations were hesitant about holding conventions in Las Vegas due to its communitywide gambling, but this attitude has now been largely dispelled, as a list of conventions scheduled for the city this year shows. Visitors spent \$1.8 billion in Las Vegas last year, only about one-third of which was spent on gambling. A tourist usually will spend about \$60 a day in Las Vegas, a conventionioneer about \$70, excluding gambling.

Restrictions aimed at the control of illegal gambling may be counterproductive by their application to legal gambling. Many of the adverse effects of illegal gambling wrongly smear legal gambling. Gamblers should be encouraged to limit their activities to the legal variety. The Chamber of Commerce recommends that each restriction aimed at the control and suppression of illegal gambling be reviewed to determine its possible adverse effect on legal gambling.

The international reputation and respect accorded Las Vegas could not have been realized without the integrity and self-discipline it has demonstrated within county, State, and national governments, or without the solidarity of community life that has been the basis of its growth and progress.

Topics covered during questioning by Commission members included the following:

1. Effects of possible competition. Due to the special circumstances surrounding the development of legalized gambling in Nevada, the vulnerability to the evils of legalized gambling is not a problem in Las Vegas, but would be a deterrent to its operation in other areas of the country. The Chamber of Commerce does not believe that legalized gambling elsewhere would have a major effect on the industry in Nevada.

2. Complaints to Chamber of Commerce. The Chamber of Commerce receives an average of 500 to 700 letters daily, none of which has been unfavorable toward the gambling operations in Las Vegas.

3. State regulation of gambling. The Chamber of Commerce feels that all aspects of the gambling industry are well controlled and completely honest.

4. Gaming industry and Chamber of Commerce. No special influence has been brought to bear upon the Chamber of Commerce by the gaming industry. There is a cooperative effort throughout the business community to develop southern Nevada, which is the basis of the State's economy.

TESTIMONY OF:

- Frank E. Scott, President, Nevada Development Authority;
President, Nevada Resort Association

AUGUST 19, 1975

Gaming is a way of life in Las Vegas. The casinos are industries and provide jobs, income, and security to the residents of Las Vegas. Those citizens who are daily exposed to the gaming industry feel that it parallels any other nonextractive industry in that the same business principles apply in gaming as in construction, banking, or manufacturing.

Some people feel that the small population of Nevada does not afford a proper sampling of the appeal of gambling nationally, but Las Vegas is a homogeneous community whose thoughts, desires, and initiatives are a composite of those felt throughout the country. In order to know about gaming, its sociological and financial impact, and its ability to be regulated, Nevada must be examined, and this examination must be conducted in Nevada.

Those who point an accusing finger at Nevada regarding crime and corruption must analyze these facts: (1) Clark County attracts an average of 16 million visitors a year; (2) the median age of the residents of Clark County is one of the lowest in the Nation; and (3) a significant percentage of the crimes committed in the county are committed by nonresidents. A study by three of the county's family counseling agencies concluded that the county's permanent residents tend to be very stable and basically conservative. The influence of the Mormon Church has helped to enforce strict community standards among the residents of the county. Surveys conducted by local development departments have consistently shown no relationship between job absenteeism or lack of labor force discipline and gambling. Corruption of the law enforcement agencies and the courts is virtually nonexistent in Clark County. An exploration of gaming in Nevada will show it to be highly controlled and well regulated. The fears that gaming generates in other areas of the country are greatly minimized by these legalized controls.

It is a curious and alarming situation when one of the Nation's largest businesses is conducted outside the law. It is even more alarming when it is realized that an enterprise of this type cannot be conducted outside the law without some cooperation from the law. Payoffs must be made and concessions must be granted. As the public's desire for gambling grows, so does government corruption and the necessity for more protection.

The imposition of the 2 percent wagering excise tax on legal sports bets in Nevada is inequitable and unjust. Such a tax only forces bettors to participate in illegal enterprises. Fair and equitable taxation of the gaming industry is beneficial to all participants, but the inequitable imposition of the 2 percent excise tax on gross, rather than net,

sports wagers is discriminatory and counterproductive to the national purpose. The imposition of the excise tax on a person in Nevada who gambles with a legal sports book, but not upon the wagerer in New York who places a bet with OTB, is unfair and discriminatory. This inequity must be called to the attention of Congress so that relief may be brought.

Topics covered during questioning by Commission members included the following:

1. Decreased rate of the wagering excise tax. When the rate was 10 percent, the Federal Government was only collecting 10 to 15 percent of what they should have been collecting. The decreased rate has probably increased the volume of legal sports betting in Nevada. If the tax were removed, the Federal Government would collect a great deal more than it does at present. Like any other industry, legal bookmakers should be allowed to operate and flourish without the obstacle of discriminatory taxation practices.

2. The future of Las Vegas. A study is being conducted at present to determine what course the city should follow over the next 20 years. The downtown area is in danger of becoming a slum, and steps must be taken to build it up and promote it.

TESTIMONY OF:

- William P. Beko, District Judge, Fifth Judicial District, State of Nevada

AUGUST 19, 1975

Gaming may not be the most important industry in the rural areas of Nevada, but its impact on the everyday life of the average citizen is substantial. Nevadans are accustomed to encountering gaming devices in establishments other than casinos. In rural areas table gaming is ordinarily confined by economics to one or two establishments. Big-time gamblers do not frequent these smaller casinos because they have no reason to travel to the small towns that cannot compete with the luxuries and entertainment offered by the resort hotels. Most of the action generated at the rural casinos is derived from tourists and business visitors. Machine gaming, however, provides substantial support to the local economies, particularly those connected with the transportation industry and its service industries.

Under existing laws, all applicants for gaming licenses are initially investigated by the State licensing authorities before the local law enforcement agencies act on the application. In each instance, the approval of the State and the local licensing boards is required, and the local board is precluded from acting on an application until the State has approved it. Enforcement is a dual effort of both the State gaming authorities and local law enforcement agencies, but the continuing scrutiny of gaming operations lies largely with the State. The State maintains a staff of highly trained undercover agents and investigators; casino employees are registered and fingerprinted; and the exchange of information between agencies concerning known undesirables is a continuing practice.

Over the past 40 years, Nevada has developed an excellent, but not a perfect, system. Continuing surveillance of the industry by the State Gaming Control Board is necessary to prevent violations and to implement new regulations whenever the need arises. Gambling is a fragile industry, and its image of honesty must be maintained if gaming is to survive as a legal and legitimate business. Enforcement must be administered on an equitable and nonpolitical basis.

Syndicates are nonexistent in the rural areas of the State. In some instances, slot machine route operators provide machines to businesses for a percentage of the profits from them. Organized crime is virtually unknown in rural Nevada.

Legalized gambling, as it exists in Nevada, creates no burden on the public or on the public agencies. Because of the strict supervision under which they exist, gaming licensees are more cognizant of their need to comply with all laws than are others who do not have the daily

or continued need to supervise their employees and activities. Knowledge that a license may be summarily suspended or revoked for willful or flagrant violations of the gaming regulations affects an entire operation.

It is hypocritical for the various States to enact laws prohibiting most forms of gambling while permitting others. There is little justification for the classifications that have been permitted and those that are prohibited. Statistics reflect the fact that many of those responsible for the apprehension, conviction, and sentencing of gambling violators do not necessarily believe that those offenses are serious. To legalize illicit gambling activities merely to clear such cases from the criminal justice system is not the answer; a nuisance cannot be justified by the imposition of a license fee on that activity.

Any State that would consider legalizing gambling to the status that it enjoys in Nevada will make a serious mistake unless it is completely satisfied that it has the legislation, the personnel, and the desire to control and supervise the industry. It must be prepared to vest almost dictatorial authority in the hands of a few persons whose integrity, honesty, and dedication are without question; to divorce completely such an administration from political influence; and to vest the authority to punish offenders in appointed, rather than elected, boards. Anything short of the measures taken in Nevada would be disastrous.

Questioning by the Commission members covered the following topics:

1. Effect of legal gambling on local prosecutors' offices. Other than gambling's impetus to the existence of 24-hour-a-day communities, the investigation of license applications, and efforts to make certain that licensees comply with State laws, gaming has had a negligible effect on the workload of prosecutors' offices.
2. Gaming revenue and Nye County. Many of the small communities would have difficulty financially without the benefit of gaming taxes and revenue. Gaming revenues contribute to a substantial portion of the local budgets; a large portion of these revenues go to the maintenance of county roads.
3. Law enforcement in Nevada. Nevada's law enforcement capability is as sophisticated as any in the country, and in areas such as computerized collection and dissemination of criminal intelligence, it is ahead of most other States. Nevada is entirely self-sufficient in the field of criminal intelligence.
4. Nevada and Federal gambling statutes. The gaming industry in Nevada is not dependent upon any illegal activity or interstate

transportation of wagering information or paraphernalia. Those laws do not have a great effect in Nevada. Congress should not create a full-time commission to supervise the activities or administration of gaming laws in the various States. The States should choose for themselves whether to have legalized gambling, and what types to legalize.

TESTIMONY OF:

- Shannon L. Bybee, Jr., Attorney, Hilbrecht, Jones, Schreck & Bybee; Former Gaming Control Board Member

AUGUST 19, 1975

Caution should be exercised in drawing conclusions from Nevada's gambling experience and assuming they will be universally applicable. The negative aspects of gambling in Nevada are universal, while the positive ones may not be duplicable in other geographical, cultural, or political settings. Nevada has a cultural heritage of legal gambling; it has a small resident population; it is isolated geographically; and it has relatively small tax needs.

The Nevada gaming control mechanism consists of a Gaming Policy Committee headed by the Governor; the Nevada Gaming Commission, a five-man bipartisan commission appointed by the Governor; and the State Gaming Control Board, which investigates applicants for gaming licenses, enforces gaming laws and regulations, and collects gambling taxes and fees.

All in all, Nevada has been relatively successful in controlling legal gambling, but there is still room for improvement. Control is relative, not absolute; not all criminals are prosecuted; some hidden ownership is not discovered. Some of the factors that make control difficult are:

1. Organized crime. Everyone in law enforcement recognizes organized crime when he sees it, but he cannot define it. This makes it extremely difficult to identify a specific individual as part of an organized crime element. Much of the threat of organized crime today is directed at the casino as the victim of plans to defraud.

2. Due process. Due process is required in gaming control no less than in other areas of governmental action. Proof of unsuitability for licensing is often difficult to obtain and document. Without such proof, a license cannot be denied.

3. Gaming supervision. Gambling is one of the few businesses with a cash inventory and no documentation of each transaction for later verification. If cheating occurs, it must be detected by observation when it occurs or it will never be detected. Cheaters are as adept as magicians. Only an extremely skilled observer can detect cheating.

4. Corruption. Legalization of gambling will not eliminate corruption unless there is no control. When control is introduced there is opportunity for corruption.

The National Gambling Commission should examine the cost-benefit ratio of casino gambling as compared to lotteries and parimutuel

gambling. Such a study would probably reveal that casino gambling involves a greater capital expenditure for facilities per dollar of return than do lotteries or parimutuel betting.

Government is capable of regulating and controlling gambling, but incapable of operating a successful gambling establishment.

Topics covered during questioning by Commission members included the following:

1. Regulators' salaries. Salaries paid to Gaming Control Board members are too low. Low salaries invite corruption, hinder careerism, and tend to discourage highly qualified people from serving on the board.

2. Regulators' role. The role of the regulatory officer is to ~~protect the interests~~ of the citizens of Nevada, primarily the long-range interests. Their interests are best served by having an industry that has an image of integrity.

3. Consumer protection. There is ample information available to players on the odds of most of the games they play. The industry does not, however, have an obligation to talk people out of gambling.

STATEMENT SUBMITTED BY:

- Ralph Lamb, Sheriff, Las Vegas Metropolitan Police Department

TESTIMONY OF:

- John P. Moran, Under Sheriff, Las Vegas Metropolitan Police Department

AUGUST 19, 1975

(Sheriff Lamb, the scheduled witness, was unable to appear before the Commission. Mr. Moran appeared on behalf of Sheriff Lamb to answer questions regarding the Police Department's experience with gambling-related issues.)

The potential for corruption in the casino licensing process is always present. In Nevada, however, the two levels of gaming regulation and enforcement--State and local--offer double protection against corrupt practices. Each level has the power to deny or revoke a gambling license. To allow corruption to exist in any form would do immeasurable harm to the gaming industry. Licensed operators generally are very conscientious in cooperating with law enforcement agencies, because it is in their best interest to maintain a positive image of the industry.

The involvement of organized criminal groups in licensed gambling is an ever-present problem. It is becoming increasingly difficult to identify the presence of organized criminal groups because large amounts of illegitimate money from these groups are invested in legitimate businesses. The money from these businesses can then be used to finance a large legal gambling operation. The chances of this occurring in Nevada are minimized, however, because of the two levels of financial clearance and approval provided by the State and local agencies.

The National Gambling Commission should apprise cities or States considering the establishment of legalized casino gambling that a large portion of any revenue created from taxation and licensing of such gambling will be needed to finance the regulatory and enforcement aspects of the industry.

Topics covered during questioning by Commission members included the following:

1. Illegal gambling. Nevada is fortunate in having very few problems with illegal gambling. This is because so much legal gambling is available.

2. Exclusion of undesirables. The Police Department is in constant communication with other States to keep apprised of undesirable people traveling interstate who might be a problem to the gambling industry. The department's Special Investigations Bureau and Intelligence Bureau

conduct background checks on applicants for gaming licenses. The department and the State Gaming Control Board work together in this respect.

3. Loansharking. There are more loansharks around two or three large racetracks than in all of Nevada. There are not more than 15 to 20 known loansharks in the entire State, and they have no connection with the gaming industry.

4. Nonresidents. Twenty percent of crime victims in Nevada are out-of-State visitors and 40 percent of the crime suspects come from out-of-State. The most frequent crimes perpetrated on out-of-State victims are muggings, purse snatchings, and room burglaries.

5. Prison inmates. Approximately 80 percent of the inmates in State prison in Nevada resided in the State less than 1 year prior to their arrest.

TESTIMONY OF:

• Paul Laxalt, U.S. Senator from Nevada; Former Governor of Nevada
AUGUST 19, 1975

One of the major problems that the Nevada gaming industry has had to face since gambling became legal in 1931 was the suspicion created by congressional committees and the national press media that the industry was being run by organized crime. The State has engaged in a continuous effort to eliminate the influence of organized crime. It has completely overhauled the licensing and regulatory framework and expanded its investigative capabilities. And it passed a corporate licensing law that enabled major hotel chains and major public companies to acquire casino properties. This has helped tremendously to improve the ownership image throughout the State. It also has enabled the State to obtain public financing through issues, debenture, and State mortgage financing. Howard Hughes' acquisition of gambling properties helped demonstrate that Nevada gambling was subject to proper regulation and that it was a good business investment.

The State of Nevada would oppose a system of national regulation or licensing of gambling. Gambling is a moral issue that must be decided at the local level. What may be a proper standard of morality in Nevada may be improper elsewhere.

During the 1960's, cooperation between Federal agencies and Nevada gambling control authorities was almost nonexistent. Since then, the State has established a good working relationship with the Federal Bureau of Investigation, but it is still having trouble with the Internal Revenue Service.

There is not a single industry or business in the country that is subject to more regulation or that is operating as well as Nevada gambling. Nevada has the most strenuous licensing procedure anywhere. Despite this, the IRS continues to suspect casinos of operating illegally. Simply because they are engaged in an activity that offends some people, gambling operators are constantly harassed.

Topics covered during questioning by Commission members included the following:

1. Casino financing. Financing is the basic problem in connection with the nonpublic types of casino gambling. Small operators have great difficulty in obtaining financing.
2. Foreign financing. It is very difficult to track sources of foreign casino financing. Unless financing comes from a recognized foreign commercial banking institution, many problems arise. On a

related issue, Nevada regulations preclude a Nevada gambling licensee from being licensed and conducting a gambling business elsewhere.

TESTIMONY OF:

• Hank Greenspun, Editor and Publisher, Las Vegas Sun
AUGUST 19, 1975

Nevada has managed to escape many of the deleterious effects of legal gambling because it is a small State from the standpoint of population and one in which the presence of figures from organized crime ranks would soon become known to local law enforcement and State gaming control agents. Because of the State's sparse population, its casinos operate in a "goldfish bowl," which makes it difficult to hide improper activity or the invasion of undesirables.

However, in a large metropolitan area, the task of control becomes much more difficult if not impossible. If gambling were legalized in such areas, law enforcement would be powerless to prevent organized crime elements from threatening pit bosses and making and carrying out their threats. This even happens in Las Vegas, but in large metropolitan areas, this and other nefarious practices would become widespread. No matter what machines or protective devices the human brain can devise, the ingenuity of the criminal element can overcome them.

Public officials considering the legalization of gambling in various States should sit in the editor's chair at the Las Vegas Sun and hear the stories of those whom gambling has harmed. This would include every legitimate merchant, owners of rental housing, and lending institutions that provide money for home purchases. Families have been deprived of proper food and have been unable to pay rents and mortgages because of gambling losses. Along the lines of the Surgeon General's warning on cigarette packs, those in lower income groups should be warned that gambling can become an addiction. If Nevada had other revenue alternatives, such as diversified industry, and was not dependent upon gaming and tourism, the chances are good that the State would choose these more conventional means of raising revenue.

Contrary to what many law enforcement and other officials claim, there have been instances in which officials have accepted bribes in Nevada. In dealing in the cash money business, there is always the danger of total corruption of officialdom.

There can be only one intelligent national policy on gambling, and that is to permit it to occur with State sanction only in a climate where it can be rigidly controlled and policed and kept free from crooked elements and shady practices that cheat the players. This control can be accomplished in only a few areas, and it becomes more difficult as population increases. Each State, not the Federal Government, should make this determination.

Topics covered during questioning by Commission members included the following:

1. Role of Federal Government. The Federal Government should have no role in determining a State's gambling policy or in controlling gambling in a State. The Federal Government should step in only where organized crime is involved and State law is inadequate to deal with it.

2. Nevada gaming control. Current Nevada gaming regulations are adequate, and gaming control authorities are doing everything possible to keep the industry clean.

TESTIMONY OF:

- Kenny C. Guinn, Superintendent of Schools, Clark County School District

AUGUST 19, 1975

(Dr. Guinn spoke as a private citizen and not on behalf of the Clark County school system.)

In many respects, Las Vegas is just like any other city. It has residential areas, parks, schools, industry, libraries, shopping centers, and cultural attractions.

The Clark County School District is growing rapidly. In most respects, educational achievement in Clark County exceeds that in other metropolitan areas. Forty-four percent of the county's high school graduates entered a college or university in 1974. School attendance is about 93 percent, which indicates a very low absentee rate. The dropout rate of 2.5 percent is also considered low.

The revenue from legalized gambling has enabled the school system to develop innovative programs. Clark County was one of the first school districts to install carpets. It also established a school for pregnant girls and started a high school that operates from 4 p.m. to 9:30 p.m. for students who prefer night school. The first year more than 600 students who had already been classified as dropouts enrolled in the night school.

Clark County schools have a higher proportion of teachers with master's degrees than any other school district in the country. Many of the teachers have paid for their education by working in casinos. Many work during the summer vacation as keno runners.

The Clark County School District receives almost no State or Federal aid for school construction. Ninety-nine percent of such funds are raised through local bond issues. Community support in fundraising is excellent. The University Scholarship Program is supported by the Las Vegas hotels and various people who work there.

All in all, the existence of legal gambling in Nevada has not hindered education in the State but actually has helped it.

Topics covered during questioning by Commission members included the following:

1. Prostitution. Prostitution is not a problem in Clark County schools.

2. Student drug and alcohol use. Neither drug nor alcohol abuse is a serious problem in Clark County schools.

TESTIMONY OF:

• Philip Shnairson, Rabbi, Temple Beth Shalom, Las Vegas, Nevada
AUGUST 19, 1975

The Las Vegas Jewish community is a vital, normal, dynamic community concerned with the building of educational and religious services and institutions.

Many members of the Jewish community work in the gaming industry or in supporting occupations, but many also work in other nongambling-related occupations. A number of Jewish casino executives have participated actively in the building and maintaining of synagogues in the city and have reared their children in traditional Jewish ways. Those who are actively engaged as dealers or lower-level executives in the gaming industry do not exceed the boundaries of casual gambling. A number of dealers are well educated in other fields and have settled in Las Vegas because of the economic opportunity available there.

The Las Vegas Jewish community has a far lower juvenile delinquency rate than comparable-sized communities around the country. This is due partially to the higher socioeconomic level, but it is also a reflection of the normal upbringing children are afforded in a community that is physically adjacent to the "Strip" but culturally and psychologically very much apart from it.

The gaming industry has not had deleterious effects on the Jewish community in Las Vegas. There are social and educational problems in Las Vegas, but they are no worse than those in other communities in the country.

Topics covered during questioning by Commission members included the following:

1. Legalized gambling elsewhere. Hypothetically, legalized gambling in other communities, such as the Catskills in New York State, could duplicate the community atmosphere that exists in Las Vegas. But it would be difficult to predict how such gambling would affect the nature and stability of a community, especially in the initial stages. The influx of a gambling-oriented clientele into a community not yet fully experienced with the phenomena could create problems, at least until the appropriate security and other capabilities were developed.

2. Gambling by Las Vegas residents. Gambling by Las Vegas Jewish residents is generally minimal. Most residents are more interested in making a living and in improving the educational and cultural opportunities in the community than in gambling. They recognize the pitfalls of promiscuous gambling.

STATEMENT SUBMITTED BY:

• George Holt, District Attorney, Clark County, Nevada
AUGUST 19, 1975

It is almost impossible to develop valid statistics to show a correlation between gambling and the incidence of crime in the Las Vegas community. This is because the district attorney's office uses a manual file. The office will soon have a computer, at which time such statistics should become available.

There is no question, however, that some individuals come to Las Vegas with the intent to victimize both residents and nonresidents. The occurrence of prostitution in the Las Vegas area is high; narcotics also are heavily traded in Clark County. Robbery and burglary rates are high. Most of the burglaries are drug-related and/or committed by juveniles. There is a substantial amount of illegal use of stolen credit cards and worthless checks passed in casinos and other businesses in the community, probably a higher incidence than in communities that do not have legalized gambling.

There have been few adult prosecutions related directly to gambling. The Clark County District Attorney's office files approximately 30 such cases per year, involving, for example, possession of cheating devices, cheating games, and manufacture and sale of cheating games.

TESTIMONY OF:

• Lawrence J. Semenza, U.S. Attorney, District of Nevada
AUGUST 20, 1975

(Mr. Semenza testified on the basis of his experience as an Assistant U.S. Attorney and not on behalf of the Department of Justice.)

The U.S. Attorney's Office for the District of Nevada does not have primary responsibility for enforcement of Federal gambling laws because of inadequate staffing and due to the existence of a Justice Department Organized Crime Strike Force operating in the area. The U.S. Attorney's Office assists the Strike Force in all gambling prosecutions. The two offices have an excellent working relationship.

Nevada is unique in that gambling is the State's major industry. Yet even with legalized gambling, the type of criminal activity encountered in Nevada is not unusual. The only Federal crimes occurring with greater frequency in Nevada than in most other States are those involving stolen and counterfeit securities, counterfeit currency, and extortion. This type of criminal activity is difficult to prosecute due to interstate and jurisdictional limitations. Other Federal crimes, such as extortionate credit activity and loansharking, do not seem to occur more frequently in Nevada due to legalized gambling. Most Federal income tax matters are handled by the civil rather than the criminal process.

Some intricate criminal investigations have been hampered by criticism of Federal agencies and the fear that the Justice Department is determined to shut down legalized gambling. This is not the case at all, but where Federal crimes have been committed, the Justice Department has an obligation to investigate and prosecute them. In a number of cases, Justice Department investigations have exposed schemes to defraud the casinos. Most of the State's gambling industry cooperates with Federal agencies. The reporting requirements of the Nevada State Gaming Control Board and the Gaming Commission have also facilitated investigations.

Topics covered during questioning by Commission members included the following:

1. Criticism of Federal agencies. Criticism of Federal agencies is sporadic, but usually occurs when the Internal Revenue Service is attempting to perform such functions as getting dealers to report their tips and pay taxes on them:

2. Exchange of information. There is not a free exchange of information between the Internal Revenue Service and the U.S. Attorney's

Office. Nevada gambling control authorities probably also have difficulty in getting information from the IRS. In addition, Justice Department regulations prohibit the disclosure of certain information to other law enforcement agencies. Since not all investigations actually result in prosecutions, damage might be done to individuals' reputations if local law enforcement agencies had access to information in Justice Department files regarding cases under investigation.

3. Wiretapping. Wiretapping is a legitimate means of conducting criminal investigations. The safeguards established by the Justice Department and by Congress are more than adequate to protect the rights of individuals.

4. Federal/local relationship. The relationship between the U.S. Attorney's Office and local law enforcement agencies is good, although it could be improved in certain areas.

TESTIMONY OF:

- Richard P. Crane, Jr., Attorney in Charge, Los Angeles Regional Office, Organized Crime and Racketeering Section (Los Angeles Strike Force)

AUGUST 20, 1975

The Los Angeles Strike Force was formed in 1970. As a result of various Strike Force investigations, a number of State statutes and regulations have been strengthened. For example, Strike Force investigations revealed that many of the legal bookmaking establishments were operating illegally. Bookies were using the telephone to receive bets in violation of Federal and Nevada law and to disseminate and receive national line information. They also were making over-the-counter bets that were not recorded. As a result, gross wagers reported to State and Federal authorities were much lower than the actual amounts taken in. Several Nevada statutes and regulations have been changed in an effort to prevent these abuses. The conviction of several prominent former owners of the Flamingo Hotel for skimming has resulted in the establishment of accounting procedures that make it difficult to duplicate the Flamingo thefts. A recent conviction of some New York racketeers has led to tighter controls on junketeers.

Nevertheless, the problem of regulation is still present. Some licensed bookmakers still operate illegally. In addition, every fall during the football season, a number of individuals with questionable associations take up residence in Las Vegas motels or hotels at the expense of some distant bookmaking empire. These individuals send line information back East and receive layoffs when necessary. The result is that Las Vegas today is still the national center for layoffs.

Strike Force investigations indicate that organized crime has been and still can be the silent partner of the casinos in Nevada. They also reveal a major role by organized crime in the collection of credit markers of many of Nevada's hotels. The racketeers use extortionate methods to collect gambling debts and then pocket most of the money. The casinos write off the debts as being uncollectable.

It is not the intention of the Justice Department to eliminate or disrupt legal gambling in Nevada, as some critics have charged. The department's intention is to help the people of Nevada regulate and police the legal gambling industry.

Nevada gambling is highly visible, and the digressions of some of its citizens are highly publicized. In reality, its problems are not as bad as its worst detractors would have one believe, and its virtues are not as numerous as its strongest supporters claim.

A number of factors make gambling in Nevada unique. To legalize casino gambling nationally would create immense problems not just for

law enforcement but for the industry itself. The necessary expertise is too limited and the cash flow is attractive to organized crime. Should nationwide casino gambling become a fact, it would be literally impossible to exclude organized crime from the legal operations.

Topics covered during questioning by Commission members included the following:

1. Federal statutes. Current Federal antigambling statutes are adequate. The existence of legal gambling in Nevada does not make the enforcement of Federal antigambling statutes more difficult.

2. Gambling caseload. About 25 percent of the cases handled by the Strike Force involve tax evasion, and 25 percent involve violation of other antigambling statutes. Strike Forces in other parts of the country have fewer gambling cases.

3. Gaming license applicants. When an applicant for a gaming license is under indictment, no action should be taken on the application until after the case is resolved.

4. State gambling regulations. The State Gaming Control Board should be given wiretap authority.

5. Organized crime. The influence of organized crime in Nevada is equal to or greater than what it was in 1970. Organized crime is involved in both legal and illegal gambling, but probably is more involved in legal gambling. Nevertheless, the great majority of the legal gambling industry in Nevada is not affected by organized crime.

6. Bookmaking. Should sports bookmaking be legalized in other areas of the country, the people who presently control it illegally would become the legal owners. These individuals are members of organized crime.

7. State Gaming Control Board salaries. The salaries of State Gaming Control Board members and staff should be raised in order to attract highly qualified individuals.

TESTIMONY OF:

- Jack Keith, Special Agent in Charge, Federal Bureau of Investigation, Las Vegas Office

AUGUST 20, 1975

At one time, organized crime controlled a number of Las Vegas casino hotels. During the 1960's, however, syndicate control of gambling operations in Las Vegas began to be replaced by large corporate investments in gambling properties. Organized criminal groups gradually withdrew from their undisclosed ownership of casinos in order to escape the "heat" of Federal law enforcement investigations.

Today, the FBI concentrates its gambling investigative efforts on three areas: illegal bookmaking, extortionate credit transactions, and junketeering.

1. Illegal bookmaking. Some Las Vegas bookmakers call the betting line to gamblers in areas where betting is illegal and accept wagers from these areas. This is a violation of Federal law. The distribution of line information from Las Vegas is accomplished in an organized and effective manner. One case investigated in 1973 disclosed the use of a "blue box," a device for making long distance calls by circumventing the normal telephone billing process. The wiretapping provisions contained in Title III of the Omnibus Crime Control and Safe Streets Act of 1968 are used effectively to intercept illegal transmission of betting information. The Las Vegas office had six Title III intercepts in 1971, four in 1972, none in 1973, and only one for a 2-day period in 1974. These intercepts resulted in 11 convictions from 1970 to 1975; 22 indictments are outstanding and 15 more investigations have been concluded and are awaiting indictment.

2. Extortionate credit transactions. Persons who incur gambling losses that they cannot afford sometimes borrow money from loansharks at extortionate interest rates. Loansharks cannot stay in business long unless they are reputed in the community as businessmen who always collect their loans. Crimes such as theft, robbery, and burglary are often committed by borrowers who feel compelled to make prompt payments. Substantial amounts of loansharking money circulate around Las Vegas. There are strong indications that some of this money originates from criminal groups in the East. FBI investigations of this activity have caused several of the smaller operators to leave town. Continuing investigative pressure by the FBI is needed to keep these operators from returning to Las Vegas.

3. Junketeering. Junkets to Las Vegas are an important source of revenue for casino hotels. But sometimes junkets are organized for the purpose of defrauding the casino. As an example, a junketeer may bring a group of people to Las Vegas with the understanding that all the

participants will be extended a certain amount of credit. When the players have used only a small portion of the chips they have been given, they cash in the remainder and leave. In such cases, the casinos have little hope of collecting on the credit extended. There are innumerable variations on this scheme, and the FBI currently is investigating two cases in which losses to the casinos involved have been substantial.

All in all, the Federal presence in Nevada has helped the gambling industry a great deal. Additional personnel on the Federal side would help even more. However, no additional Federal legislation is needed to deal with the problems created by legalized gambling in Nevada.

Topics covered during questioning by Commission members included the following:

1. Organized crime. Organized crime can never be completely eliminated from gambling operations, but its influence can be controlled and minimized.

2. Title III intercepts. The job of investigating illegal bookmaking activities emanating from Las Vegas would be facilitated if wiretapping authority were less cumbersome administratively to obtain and administer. But all of the safeguards against improper use of this authority should be maintained.

3. Civil vs. criminal process. It might be more effective in the long run to use the civil rather than the criminal process to put illegal gamblers out of business. This involves making it economically unfeasible for them to continue their operation. This could be accomplished by using the current Internal Revenue Service structure to assess fines and impose liens upon properties to enforce tax liabilities.

TESTIMONY OF:

- Saul Leonard, Certified Public Accountant; Partner, Laventhol & Horwath
- Charles Chazen, Certified Public Accountant; Partner, Laventhol & Horwath

AUGUST 20, 1975

A gambling casino that maintains proper records, operates with appropriate administrative and accounting controls, and is operated by qualified individuals is as auditable as any other business enterprise that has similar attributes. The auditability of a business does not depend upon the nature of the business but upon the manner in which it is conducted and the "tracks" or "trails" that are left for the auditor to follow. These tracks or trails result generally from an enterprise's system of internal controls, the retention of complete and accurate records, and the availability of sufficient outside evidence, all of which enable the independent auditor to form an opinion on the credibility of the financial statements.

Some people mistakenly believe that because a gambling casino's principal stock in trade is cash or its equivalent, it must necessarily follow that controls over cash are loose. There are many businesses, including banks and retail stores, in which cash and its equivalents are a significant aspect of the normal operations. Such enterprises have always been considered to be auditable provided they have the proper system of controls. The same is true of casinos.

The most unique area in the audit of a casino is the verification of gaming revenue and related receivables. The auditor must not only satisfy himself as to the revenue actually collected by the casino; he must also be sure that all the revenue earned but not yet received was recorded. He must ascertain whether the gaming revenues generated were properly accounted for and recorded.

"People-to-people" verification is an important part of the auditor's examination. People-to-people checks are primarily used to watch over the cash before it reaches the point where it is accounted for in conventional records. This control is achieved by a network of "people watching people watching people." Many observations are made by the auditor on a surprise basis. The people-to-people controls include not only supervision and observation by people on the casino floor, but also the use of "eye in the sky" (overhead observers) and closed circuit TV cameras.

Gaming revenue is generated through cash transaction and IOU's (markers). Procedures relating to the issuance and control of these receivables are prescribed in the regulations issued by the State Gaming Control Board. The extension of credit in a casino is closely controlled and monitored. The auditor tests the validity of balances by confirmation directly with the debtor.

Currency and credit slips received at the gaming tables are immediately deposited by the dealer in a locked box to which neither he nor anyone in the "pit" has access. Pit bosses and other casino employees constantly monitor each table to be certain that the prescribed procedures are rigidly followed. The locked box is removed at the end of each shift by security guards and taken to a prescribed area, usually a central count room adjacent to the casino's cashier's cage, where it is subject to intricate controls including the use of multiple keys by a variety of individuals from both the security staff and the accounting department. It may also be subject to closed circuit television monitoring. The supervised, monitored count of the contents of these boxes results in the creation of detailed auditable records.

In recent years, many casino and hotel operations have been acquired by publicly held companies or have themselves gone public. These companies are required to file annual reports with the Securities and Exchange Commission. The financial statements included in these reports are covered by an opinion of independent auditors.

Topics covered during questioning by Commission members included the following:

1. Casino income tax returns. Income tax returns of casinos do not reflect the income from credit markers as income until the debts are actually collected.

2. Gambling debts. Gambling debts usually are collectable because the people who incur them generally feel bound to pay what they owe. Casinos follow basically the same procedures for collecting debts as other businesses. This may include the use of a collection agency. In cases where casinos write off debts as uncollectable, the State requires that the write off be substantiated for State income tax purposes.

TESTIMONY OF:

• Louis Wiener, Jr., Attorney
AUGUST 20, 1975

If an attempt were made to establish legal casino gambling in large cities, the problem of investigating those who sought gambling licenses would be beyond the capability of any investigative agency. In a densely populated area, there would be many more applications for licenses than the licensing body could handle. The kind of thorough investigation that is conducted in Nevada would be impossible. In addition, Nevada communities are small enough that it is possible to spot undesirables when they appear in casinos. In a large city, this would not be possible. It would not be long until undesirables gained control of the casinos in a large city.

There would also be serious problems regarding the type of people who gamble in an urban setting. A second welfare system would have to be established for those who gambled away all their money. This happens to a certain degree in Nevada communities but not as much as it would in a large city. Most of the people who gamble in Las Vegas come to town with a specific amount of money set aside that they are prepared to lose. In an urban setting, a large portion of the gamblers would be residents instead of tourists. Many of them would acquire a gambling fever that would be easy to indulge and that would have disastrous consequences.

There would not be enough capable, experienced operators to staff casino gambling establishments around the country, and many establishments would go broke as a result of the inexperience of their managers and operating personnel.

JOINT TESTIMONY OF:

- William H. McElnea, Jr., President, Caesars World, Inc., and
- Harry Wald, Executive Vice President, Desert Palace, Inc.

AUGUST 20, 1975

Statement of William H. McElnea, Jr.

Caesars World, Inc., is a New York Stock Exchange listed company that owns Caesars Palace and the Thunderbird hotel casinos in Las Vegas.

A successful hotel casino provides an unusually high return on its investment. This high level of profitability has attracted public corporations to the Nevada gambling business. Caesars World stockholders approved the acquisition of Caesars Palace by a vote of 3.5 million share to 27,000 shares. The New York Stock Exchange at no time expressed dissatisfaction with the acquisition of Caesars World and has not treated the company any differently from the way it treats the more than 2,000 other companies whose securities are traded on the exchange. However, the experience of Caesars World with the financial community was less successful at first. Several major investment banking houses declined to manage the financing of the Caesars Palace purchase because they feared involvement with the gambling industry. It has taken Caesars World a number of years to educate members of the investment banking community to the nature of the hotel casino business. Within the past 2 years, the financial community has begun to accept the gambling business. Caesars World has succeeded in instituting a relationship with one of the largest investment banking firms in the country. Financial establishments have begun to treat companies engaged in gambling as they treat all other companies.

The acquisition of Caesars Palace has also had a substantial impact on the relationship between Caesars World and Federal agencies, specifically, the Securities and Exchange Commission, the Internal Revenue Service, and the Department of Justice.

Following the acquisition of Caesars Palace, the Securities and Exchange Commission began using its jurisdiction over disclosure by public corporations to try to obtain information about the people from whom hotel casinos were purchased. Hotel casinos purchased from private owners have become the subjects of intense, time-consuming, disruptive, and expensive investigations by the SEC. The SEC does not really understand how the hotel casino industry operates.

For many years the Internal Revenue Service has waged war on what it believes to be widespread failure of private casino operators to report taxable income. Public corporations, however, have no reason not to report income; few of them would give up a dollar of reported earnings to save 50 cents in taxes. Nevertheless, the IRS has focused particular

attention on public corporations in its investigation of possible tax evasion. These investigations often are costly and disruptive because the IRS is not aware of the sophisticated internal controls exercised by the casinos.

The Justice Department has conducted investigations into various aspects of legalized gambling. Statements made by government prosecutors raise serious questions as to whether Justice Department officials involved in the investigations really understand how the legal gambling business is operated.

Public corporations have introduced numerous modern management and financial techniques to the gambling industry. Caesars World has an elaborate corporate security system designed to prevent illicit practices. It hires only highly qualified individuals of high integrity.

Caesars World is attempting to end the misunderstanding about the operations of gambling establishments in Nevada, particularly those operated by public corporations. Its attitude always has been to encourage government agencies, financial institutions, the press, and the public to delve into its operations and learn what it stands for. But the goal of education requires more than a willingness of those in the industry to open their operations to inspection. It also requires a willingness by those who ought to learn about the industry to spend the time and effort necessary to do so.

Statement of Harry Wald

Desert Palace, Inc., is the corporation that operates Caesars Palace. Caesars Palace currently has 1,233 guest rooms; a 20,000 square foot casino; five restaurants; a theater restaurant; and 83,000 square feet of convention space. It employs approximately 2,700 people. Its Fiscal Year 1974 revenues exceeded \$86 million. Casino operations contributed approximately 63 percent of the revenues and 67 percent of the operating profit; hotel operations contributed approximately 37 percent of the revenues and 32 percent of the operating profit.

Unlike many of the hotels in Las Vegas, Caesars Palace has very few junkets in which outside organizers put together groups and are responsible for credit checking and collection of accounts receivable. It does, however, sponsor a number of special promotions in which groups of customers are invited to Caesars Palace without charge for rooms or meals to participate in special events such as a New Year's Eve party. Caesars Palace also is host to other types of special events such as boxing and tennis matches. Caesars Palace customers come from all over the world, but the majority--approximately 60 percent--come from the Los Angeles area.

Approximately 35 percent of the chips purchased at table games at Caesars Palace are purchased for credit. If a customer wants to obtain credit, he is asked for bank references and for a statement of the maximum credit he would like to be allowed. Before his credit is approved, his banks are contacted about his ability to pay, and a check is made with a central information clearing service in Nevada to determine whether he has a history of paying or refusing to pay gambling debts. Caesars Palace has a computerized credit system that enables casino employees to know at any time the amount of unused credit available to each customer. The system also enables Caesars Palace to determine how frequently a particular customer has visited the hotel, the amount of credit he has obtained on various visits, and the speed with which he had paid his debts. Even though gambling debts incurred in Nevada are not enforceable in that State or in any other State, Caesars Palace by June 30, 1975, had collected almost 95 percent of the credit extended through December 1974. This collection record compares favorably with those of many retail establishments that have access to courts in collecting their debts.

When it appears that a customer is reluctant to pay his gambling debt, his IOU is forwarded to a reputable collection agency or to an attorney in the city where the customer lives. If the collection agency or the attorney is unable to collect the debt, the IOU is returned to Caesars Palace, where it may eventually have to be written off as a bad debt, or at least will lie dormant until the customer again visits Caesars Palace. Contrary to popular rumor, Caesars Palace (nor any of the other casinos that Mr. Wald is aware of) has never used the threat of physical coercion to collect gambling debts.

Caesars Palace has adopted an elaborate security system to prevent stealing by both employees and customers. While it is impossible to prevent stealing entirely, the combination of observation by casino employees, careful recordkeeping, statistical analysis of casino operations, and surveillance by the corporate security department makes it extremely difficult for an employee or customer of Caesars Palace to engage in significant stealing activities for any protracted period.

Topics covered during questioning of Mr. McElnea and Mr. Wald by Commission members included the following:

1. Relationship with financial institutions. While much progress has been made in gaining the confidence of financial institutions, the situation is not yet ideal. Companies that are willing to spend the time to visit and observe hotel casino operations generally become enthusiastic supporters of the gambling industry. But it has been very difficult to persuade the larger financial institutions, whose support is needed, to visit Las Vegas. Their traditional policy has been not to invest their policyholders' funds in businesses connected with the

gambling industry. The prejudices of financial institutions have been fostered in part by the media and by government agencies.

2. Corporate security department. Caesars World has a corporate security department that is separate from the internal security mechanism within Caesars Palace. This creates a checks-and-balances effect. The management of the corporate security department consists of a retired FBI officer, a former sheriff of Clark County, Nevada, and a former police chief of Las Vegas.

3. Relationship with government agencies. The relationship between the Nevada gambling industry and government agencies could be improved if a mechanism were established whereby gambling industry representatives could meet with government agents on a regular basis in a nonlitigation environment. It would be improved if government agents had the specific qualifications and backgrounds needed to conduct gambling-related investigations.

4. Influence of organized crime. Organized crime is not a factor in publicly traded hotel casinos such as Caesars Palace. Other large corporations such as MGM, Hilton, and Del Webb could only lose by associating with organized crime figures.

5. Illegal bookmaking. It would be helpful to eliminate the penalties for interstate communications of wagering information and to eliminate the 2 percent tax and the \$500 individual fees that bookmakers have to pay.

TESTIMONY OF:

- Robert Broadbent, Chairman of the Board, Las Vegas Convention and Visitors Authority

AUGUST 21, 1975

It is no coincidence that Nevada--the only State with legalized casino gambling--also depends heavily upon tourism and convention bookings. Ever since Las Vegas was created as a railroad whistlestop in 1905, gambling has played a vital role in Las Vegas' entry into the resort and convention industry. Gambling plays an integral part in the attraction of Las Vegas as a vacation and convention center, but the gambling industry cannot be isolated from the other attractions featured in Las Vegas, such as entertainment and recreation. It is the excitement of the "sun and fun" city that draws visitors to Las Vegas. Legalized casino gambling makes it possible for the city to offer these features because, without gambling revenues, the hotel industry could not afford the expense of top-name entertainment or luxurious hotels with their extensive dining and recreational facilities. Legalized gambling is only a part of the total market product, but it is the foundation of the city's leisure and convention industry.

Las Vegas is one of the world's leading travel destinations, and has been named both the "entertainment capital" and "convention capital of the world." The integration of gaming with the entire Las Vegas package and the successful marketing and promotion of that package has resulted in a significant economic gain for both the resort industry and the community. In 1974, 8.6 million people, including tourists and conventioners, contributed \$1.8 billion to the local economy. Gaming revenues for the same period amounted to \$680 million throughout Clark County.

The Las Vegas hotel/motel industry currently has an inventory of 34,866 rooms, and in 1974 had an average occupancy rate of 86 percent in the hotels and 69 percent in the local motels. These figures are well above the national average for both hotels and motels.

The entertainment value of Las Vegas can be emphasized by the revenue generated through entertainment taxes collected by the State. The 10 percent entertainment tax on each show generated more than \$9 million for the county in 1974.

Although many association and corporate executives still exclude Las Vegas as a possible convention site because of the "sin city" image produced by casino gambling, 339 conventions were held in the city in 1974, attracting 311,908 delegates who spent more than \$79 million during their visits. In order to overcome the "sin city" image, marketing and promotional campaigns emphasize the total Las

Vegas product. Although most promotions allude to the gambling industry, a hard-sell approach is never used in advertising campaigns.

With the introduction of jet air travel, the city has directed its marketing efforts to both individual and mass segments of the travel market. Tourist volume in Las Vegas has increased 27.7 percent since 1970, while gambling revenues have averaged an annual increase of 16.8 percent. And despite the national publicity Nevada receives as a gambling mecca, it ranks only fifth in State gambling tax collections. This fact demonstrates that all types of betting and gambling are readily accepted throughout the United States, and are becoming an integral part of American life. Las Vegas, with its entire gambling-entertainment marketing product, is an important segment of the growing leisure entertainment market.

Questioning by Commission members covered the following topics:

1. Tourists' characteristics. For the first quarter of 1975, 32 percent of the visitors were repeat customers and 28 percent were new ones; approximately 34 percent traveled by air to Las Vegas, 58 percent used automobiles, and the remainder, bus and train. Surveys have shown that 39 percent of the visitors are attracted chiefly by the gambling (49 percent of those who travel to the city by bus are drawn for this reason). The greatest percentage of the market comes from southern California, which accounts for 57 percent of the total market; the remainder is spread throughout the United States.

2. Effect of the energy crisis. The first half of the first quarter in 1974 showed a drop of 4.5 percent in travel to Las Vegas, but the year as a whole showed an increase of 2.2 percent. The 6.8 percent increase in 1973 was the largest annual increase in the history of Las Vegas.

3. Conventions and "sin city" image. Rumored Las Vegas ties with organized crime have not been a factor in the reluctance among many corporate executives to select Las Vegas as a site for their conventions. There is the fear either that the organizations might be criticized for coming to Las Vegas at public expense, or that conventioners might lose too much money at the gaming tables.

TESTIMONY OF:

• Michael J. Gaughan, President, Royal Inn Casino
AUGUST 21, 1975

Gambling can be run legitimately, be regulated, and coexist with other types of business and industry, forming a cohesive economic basis for the benefit of all concerned. Because casino gambling is a unique industry, it may be difficult, if not impossible, for other States to operate. The gambling industry in Nevada has experienced many growing pains, but the industry is successful today because it is supported by State laws and regulations which were developed over the years and now provide the industry with a solid foundation. This state of affairs has been made possible in large part by the State's small population, the goodwill of many well-intentioned people, and the trials and errors of the past 45 years.

As the Prohibition experience demonstrated, citizens wanted to drink--just as many people today want to gamble. Congress would be making a mistake if it attempted to prohibit gambling.

It is important that distinctions be made between the various types of gambling. Horseracing, lotteries, and off-track betting are as similar to casino gambling as they are dissimilar. Similarities exist in the fact that money is wagered with an element of chance, but it is toward the dissimilarities that attention must be directed. One difficulty for casinos exists in the area of regulation and policing. The most common problem is in the handling of money. In most forms of legitimate gambling players receive tickets or receipts, but in casino gambling players bet cash for cash. Another problem regards the amount of expertise needed in casino gambling compared to other forms of gambling. Unlike the limited action games such as weekly lotteries or daily races whose tracks close down every evening, casino gambling is a continuous activity. Many people possess a weakness for gambling and only the fact the casino gambling is not available nationwide holds their impulses in check. It is apparent that one of the main arguments against casino gambling in large metropolitan areas concerns the so-called "problem gamblers." More research is needed in this area. Caution must be exercised if conclusions are made based upon the "Nevada experience," which is unique but from which much can be learned. Gambling is not a divisive force to those who know and understand it, but to the uninitiated and the weak, the potential for self-destruction is great.

Casino gambling could be successfully legalized in other resort areas of the country, but expansion must be conducted with the utmost caution and under the tightest regulations. There are presently not enough qualified people to staff casinos throughout the country, and

it would be impossible to train enough personnel for this highly skilled field in a short period of time. To permit casino gambling in every community would be to invite a regulatory nightmare, impossible to control; unskilled personnel would be a danger not only to themselves, but to their customers as well.

Questioning by Commission members covered the following topics:

1. Legalized casino gambling in other areas. Any area that has a large number of tourists would be suitable and could establish a successful operation if it wanted to. But even in cities such as Honolulu, Miami, or New Orleans, there would be some people unable to handle their gambling impulses. The system cannot effectively eliminate the problem gambler: he will have to cope with the situation or move.

2. Organized crime in Nevada. There is a danger than an expansion of legalized casino gambling could be infiltrated by organized crime, although it is not felt to exist in Nevada. Anywhere there are large amounts of money involved, the threat of organized crime influence is possible--whether in Las Vegas or elsewhere, in gambling or in garbage.

3. State regulation. The State Gaming Commission does an excellent job in the regulatory field in making sure that its laws are upheld. The problem exists in the lack of protection the casinos have against people who cheat them. The Gaming Commission does its best to help, but the fact is that the most capable people in gambling are either operating casinos or stealing from them. It would be impossible to establish an effective security staff to police the industry to control this problem. Stealing is done on an individual basis; the people involved are not tied with organized crime. Stealing from slot machines, pushing dice in a crap game, or the cold decking of a 21 game is done by individual thieves.

4. Government versus private operation. The success of a government-run operation would depend upon the people employed by the government. Maybe, with a capable staff, a State could run a casino.

5. Honesty of gambling in Las Vegas. Gambling became a real success in Las Vegas 20 years ago when the people involved realized that an honest operation would do more business than a dishonest one. ~~The IRS does not generally concern itself with the honesty or dishonesty of a gambling operation, but rather with the problems of skimming and hidden ownership.~~



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6. Legal bookmaking. If the 2-percent Federal excise tax on gross wagers were waived, legal bookmakers would be on an equal footing with the illegal bookmakers. This in turn may help eliminate some organized criminal influence in bookmaking.

7. Downtown versus the Strip. Downtown offers very little in the way of entertainment, it is aimed primarily at the slot machine player. Prices are higher on the Strip, and the odds are better in the downtown casinos. Downtown casinos generally do not permit the use of credit markers and account for only 15 percent of the markers in Las Vegas.

JOINT TESTIMONY OF:

- Barron Hilton, President, Hilton Hotels Corporation; and
- John V. Giovenco, Senior Financial Vice President and Treasurer,
Hilton Hotels Corporation

AUGUST 21, 1975

Statement of Mr. Hilton

There are 1,200 gambling licenses outstanding in Nevada, of which only 80 account for 96 percent of the State's gambling revenue. Not all of these 80 casinos--or the other 1,120--are profitable, but there are several reasons why a State-operated casino would not generate the same level of tax income Nevada enjoys. A State would not pay casino managers and executives salaries much in excess of the Governor's; it would not be willing to underwrite entertainment costs in excess of \$100,000 per week or extend sizeable amounts of credit to players or assume the capital expense of erecting facilities comparable to those in Nevada. Without the expertise, glamor, and convenience afforded only by these types of expenditures, such operations would be lackluster in comparison to those in Nevada.

The operation of casinos by private enterprise under State license is a different story. The effect of such an operation on Nevada would depend upon its geographical location, the rapidity with which competing facilities could be established, and its ability to hire qualified casino managers. Only now are "homegrown" casino managers beginning to show up in any quantity in Las Vegas. The supply is limited, and the cost is high. Also in terms of identification as a casino State, Nevada has had a head start that might prove insurmountable.

Casino gambling in Nevada has had serious problems in the past with organized crime, skimming, cheating, and dishonesty; but by attacking these problems aggressively, Nevada has been able to overcome an admittedly questionable reputation. Whether another State could instantly develop a system that took Nevada 45 years to create is questionable.

Hilton Hotels Corporation entered the Nevada market in 1970 and has on the whole enjoyed excellent relationships with the various Federal agencies involved with casino operations. The extreme suspicion exhibited by the Internal Revenue Service in its examinations of Nevada casino operations is of great concern to the corporation. The attitude of the IRS is that the casinos are automatically guilty but are given a chance to prove themselves innocent. Hilton financial executives in other parts of the country are not subjected to similar treatment. Of additional concern is the effort of the IRS to obtain third-party information through Federal grand jury presentations made

by Justice Department Strike Forces. It is a problem not faced by any other business in any other section of the country. These grand jury presentations are unwarranted fishing expeditions in which the normal channels of obtaining information are circumvented, and which are sparked by information and attitudes ingrained in the IRS 15 to 20 years ago and never updated. The IRS is still unaware that there is a difference between legal and illegal gambling. Incursions by the IRS strain the hotel's host-guest relationship and are costly in terms of staff time and legal expenses.

The two Hilton hotels in Las Vegas are probably the largest junket operators in Nevada. Benco, Inc., a wholly owned subsidiary, operates 35 offices throughout the United States and the world. During 1974, the Las Vegas Hilton was host to 144 junkets with 14,706 participants who accounted for 13.1 percent of the hotel occupancy rate. The Flamingo Hilton conducted 107 junkets for 9,580 customers, who accounted for 18.1 percent of the occupancy rate for the year. No one is invited on a junket unless he has the ability to satisfy his gambling obligations. While a junket customer receives free transportation, room, food, and beverages (and no strings are attached to any invitation), his performance and value to the hotel are rated. Not all casinos operate junkets, and not all should, but the returns from a substantial amount of junket activity warrant the costs involved.

A system of closed circuit television cameras are able to monitor every game in each of the Hilton casinos. This system has discouraged cheating and theft by both casino employees and customers. No tape is ever shown publicly unless it becomes evidence in a court of law. In the short time the system has been operational, every person accused of cheating or stealing has been found guilty or pleaded guilty because the system provides proof of illegal activities.

Undoubtedly there are some compulsive gamblers in Nevada casinos, but it would be impossible to identify them, particularly if they were cash rather than credit players. A credit player who is a compulsive gambler would have a difficult time in Nevada because of the rigid credit standards. A compulsive credit card user faces a far greater chance of going into debt than a credit gambler.

Statement of Mr. Giovenco

The internal controls employed by Hilton in managing its Nevada casinos are based on the same principles used to establish controls in other businesses, with the exception being in the terminology.

Obviously there are unique aspects involved in casino operations, just as in any other type of business, and controls are tailored to

suit that uniqueness. The only truly unique aspect of gaming operations is the transactions occurring at the gaming tables.

The casino cashier cage is accountable at any moment of any day for a specific total amount consisting of money and chips adjusted by other data, including requisitions and credit slips. All movements of chips and markers between the casino cage and the gaming tables are accountable through the use of written documentation on prenumbered multiple forms designed for that purpose. These movements, in addition to the counting of the cash, involve many personnel responsible to different departments, at least two of which are independent of the casino. These personnel must sign for the counting and receipt of casino funds to control accounting properly. Cages are secured by electronically locked doors, and access is limited to a small number of employees.

Controls over credit transactions are directed to extension of credit, collection procedures, and review of uncollected balances. Only a limited number of executives are permitted to extend credit to customers. Customers seeking credit must complete an application that is verified by the credit department and approved by an appropriate casino executive. Monthly meetings are conducted to review uncollected balances. The corporation has found its collections on gaming debts to be very satisfactory.

The most important aspect of internal controls in casinos is the employment of qualified, reliable, and honest personnel. Once hired, employees are constantly scrutinized for changes in lifestyle; investigative agencies may be used for this purpose.

There is probably no business that inventories its merchandise as often or as accurately as a casino. With the exception of those in the possession of customers, every chip can be accounted for at any time. It is a simple process, complicated only by the high volume.

The unique aspect of table transactions is the determination of win and loss (sales) that must be derived from the inventory accounting rather than being the direct result of an accumulation of a number of individual transactions.

The inability to determine win or loss by an accumulation of sales invoices dictates that a greater emphasis be placed on controlling the transactions entering into the derivation of win or loss. Extremely close supervision and surveillance of casino personnel is mandatory. Dealers and boxmen at the tables are under constant supervision by floormen, who are supervised by pit bosses, who are in turn supervised by shift bosses. The shift bosses report directly to the casino manager or his designated representative. An overhead

surveillance set up (the "eye in the sky") enables specially trained observers to watch the activity on the floor from above. A staff of CPA's analyzes the gaming procedures and audits the results of gaming activities to insure compliance with the Nevada gaming regulations and with company policy. These controls are documented and submitted to the State gaming agencies.

Since the amount of each wager cannot be recorded, the total amount of all money wagered cannot be known. Win percentages and statistics have been developed and can fluctuate widely on a short-term basis. Over an extended period of time, a range of percentages establish themselves and serve as a management tool in analyzing gaming results. Results are analyzed in terms of deviations from the mean percentage developed for each game and can be compared from day to day, or even year to year.

The use of computerized systems in the gaming industry is relatively new, but a credit authorization system is presently being developed that will enable management to analyze credit systems and practices more effectively and formulate progressively better credit policies.

Although management and outside auditors believe the present system of control is reliable and effective, it is constantly reviewed for improvement.

Questioning of Mr. Hilton and Mr. Giovenco by Commission members covered the following topics:

1. IRS and Strike Force investigations. A real threat exists to the legal gaming industry if the IRS continues the practice of shotgun subpoena-type investigations. Customer confidentiality must be protected; harassment of customers is a great deterrent to building up business for Nevada's casinos. The attitude of the IRS has been that everyone involved in gambling is guilty until proven innocent. There is a completely different attitude toward business in Nevada than in other States. The casinos and hotels have had discussions with the IRS district director in Reno and have been able to eliminate these problems to a great extent. The subpoena shotgun approach that requests lists of names and records is unrelated to what the IRS has said it was seeking.

2. Credit. About 40 percent of the casino's income is based on credit, which is not taken as income for tax purposes until collected.

3. Junkets. Theoretically, out of every \$1,000 wagered, the casino's profit will be \$200. Thus for a junket that costs the casino \$500, the participant should have the ability to gamble \$2,500.

4. Auditing controls. The IRS has never indicated which audit controls it believes to be deficient. It has said that the controls involved in gaming are the best it has come across, but it still does not believe that they are completely reliable.

5. Long-term loans and development in Nevada. Many major financial institutions are still hesitant about making long-term loans to developers in Nevada. Over a period of time, however, they will probably change their minds.

TESTIMONY OF:

- Jack K. Pieper, General Manager, Frontier Hotel, on the behalf of The Summa Corporation
- John T. Petit, Director of Research and Planning, Summa Corporation

AUGUST 21, 1975

Investments in Nevada by Summa Corporation, a wholly owned entity of Howard Hughes, began in real estate in the early 1950's and have been maintained and increased ever since a review of possible investments increasingly suggested the recreation industry. Summa Corporation does not look upon Las Vegas as a gambling mecca but rather as a total environment, of which gaming is only one part. The recreational industry represented a short-vacation-oriented resort area whose attractions included outdoor sports, attractive climate, quality entertainment, luxury hotel accommodations, and a unique attraction--gambling. Nevada represents a unique, established circumstance for a legalized gambling industry, locally controlled and well-regulated, which can be an entertainment activity of increasing interest to larger and broader segments of the population. The recreation hotel/casino industry must be a managed business operated in an orderly and organized manner with carefully defined parameters of predictability and control.

The Hughes investment in hotel/casino holdings in Nevada is in excess of \$100 million. Howard Hughes, as an individual, is licensed to do business in the Silver Slipper Casino. Summa Corporation manages and/or holds interest in the Desert Inn, Sands Hotel, Frontier Hotel, Landmark Hotel, and the Castaways Hotel in Las Vegas, and Harolds Club in Reno. Of these, title is held only in the Sands, Frontier, Landmark, and Castaways hotels. The other interests are leasehold operations.

Summa Corporation has attempted to improve the operation of its recreational industry interests by the application of updated management-by-objective techniques and advanced computer techniques. Credit is essential to the operation of a successful gaming enterprise. Bad debt expenses are directly related to a casino's policies and methods of issuing credit. The credit granted by casino management varies with the individual's experience, but credit information is extremely proprietary. The COSAC computer system has become an integral part of casino auditing systems, and by providing immediate credit updates, serves to prevent both the casino and the players from exceeding established credit limits. Summa Corporation credit losses compare favorably with those in banking and retail merchandising.

Each hotel is operated on an independent basis, controlled by a general manager--a system that permits the development of an

individual personality for each casino and a competitive approach to serve the diversified needs and tastes of a variety of customers. The corporate office furnishes assistance only as requested in the accomplishment of long-term objectives, including consistent personnel policies, computer systems development, entertainment, and auditing procedures.

Regulation of table gaming requires control by knowledgeable people who understand the business. The State of Nevada has been effective in its policing and regulation of the gaming industry, particularly in the investigation of personnel and procedural practices. Summa Corporation fully supports the Nevada State gaming authorities and believes in the need for local regulation and enforcement of gaming activities.

Questioning by Commission members covered the following topics:

1. Internal Revenue Service. The Frontier Hotel has received subpoenas from the IRS, but not the shotgun type. The IRS should always subpoena individuals and not resort to blanket subpoenas. Summa Corporation has not experienced such treatment to an inordinate degree, no more than normally expected. The hotel has not noticed any particular adverse treatment in Nevada as opposed to corporate operations outside the gaming industry.

2. Hughes' Nevada revenue. The Frontier Hotel does not have access to the total figures.

3. Organized crime in Nevada. Organized crime does not seem to exist in Nevada; in any event, it is not involved with the Frontier Hotel.

4. Sports bookmaking. There are no plans at the present time for any of the Summa Corporation hotels to seek licenses for bookmaking. Staffing is a major consideration. The corporation does not know whether Las Vegas serves as the national bookmaking lay-off center, nor does it know about the establishment of point spreads or about the individuals who make them.

5. Credit. The amount of credit business at the Frontier is considered proprietary information, but its credit losses run to about 3.5 percent. The hotel tries to make collections itself, until it is necessary to send them to a reputable licensed collector. The agency acts on behalf of the hotel and does not sell the credit markers to other collectors.

TESTIMONY OF:

• John Gaughan, President, El Cortez Hotel
AUGUST 21, 1975

(In addition to Mr. Gaughan's connection with the El Cortez, he has an interest in, manages, and owns the following casinos: 1951: 2 percent interest, Flamingo Hotel; 1953 through 1958: ownership and management, Saratoga Sports Book; 1961: ownership, Las Vegas Club; 1962: ownership, Club Bingo; 1963: part ownership, El Cortez Hotel; 1969: erection, Western Casino and Bingo; 1972: part ownership, Royal Inn Casino and Union Plaza Hotel; 1973: part ownership, Golden Nugget; 1974: erection, Nevada Hotel.)

Gambling is very much like any other business in virtually all of its related problems, the most important of which is the ability to find capable management and talented personnel at all levels of the business. Invariably, where the level of intelligence and competency of the executive department is high, the problems of such a business are small. The gaming industry in Nevada is continually preoccupied with the integrity of those people who are entrusted with the day-to-day supervision of gambling activities.

There should be no special apprehension concerning the legalization of gambling in other areas of the country. The industry in Nevada is more than just a crap game and a number of slot machines. What exists in Nevada today is a result of gigantic capital investment, enormous operating budgets, including millions of dollars in entertainment and related customer attractions, and the development of State gaming controls through 45 years of trial and error. A similar commitment of capital, manpower, continuous promotion, and gaming controls will have to be matched and probably exceeded if another area were to compete successfully with Las Vegas. Although legalized gambling is possible outside of Nevada, it may not prove to be so successful as the operation in Nevada.

Questioning by Commission members covered the following topics:

1. Gaughan's illegal bookmaking activities. In the late 1940's, Barrick and Company in Omaha, Nebr., maintained contacts with bookmakers and racetracks throughout the country, and handled bets on football, baseball, and basketball. There may have been some corruption at that time, but nothing suspicious could ever happen without the bookmakers' knowing about it. It is important for bookmakers that things be honest, and if a problem were found with a team or group of teams, they would be taken off the betting list. There is no college in the country that wants its team dropped from betting consideration

as such an action would signify that a problem existed in that school's program. It is embarrassing to the university, its president, the coaching staff, and the players.

2. Legal versus illegal bookmaking. The imposition of the occupational tax stamp, more than the collection of the 10 percent excise tax on gross wagers, caused the move from Omaha to Las Vegas in the early 1950's. Illegal bets of up to \$10,000 were taken in Omaha, but credit was limited to bets of \$300 or less in Las Vegas. The 10 percent tax in Las Vegas precluded any competition with illegal bookmakers and limited legal action to the handling of parlay cards. Since the reduction of the excise tax to 2 percent, the legal bookmaker is still at a comparative disadvantage, but is now in a position where he can compete. Even if the legal bookmaker absorbs the 2 percent tax, it leaves him only one-half of 1 percent in profits after expenses are paid. Nobody can make money in legal bookmaking if he is forced to absorb the tax. A bookmaker still has to cheat in order to be competitive.

3. Organized crime. There has never been any connection between any Gaughan holding in Nevada and organized crime. Organized crime is not a factor in casino gambling in Nevada. Members of organized crime are not bookmakers or gamblers, but only prey on business operations, including bookmakers, for protection money.

4. Internal Revenue Service. IRS investigations have never posed a problem for the Gaughan holdings in Las Vegas because they are primarily visited by lower income gamblers and do not extend great sums of credit. The casinos have not received an inordinate amount of requests for information from the IRS.

5. Withholding tax. A gambling operation would be impossible to run, and the tax impossible to collect, if a withholding tax were enacted by the IRS. The up-and-down situation of gambling could not be accurately recorded by the hundreds of extra bookkeepers and revenue agents that would be necessary to monitor the activity. The return to the Federal Government would be minimal and would necessitate needless accounting.

6. Gambling percentages. The success of a gambling operation depends on the percentage retained by the house, the volume of business, and the overhead costs involved. Expenses cannot exceed the percent of the volume held by the business. Food and beverage generally account for 14 percent of the gross volume, 37 percent goes for wages, 35 percent for other expenses, with the remaining 14 or 15 percent retained as profit before taxes. The percentages for such games as dice, 21, and roulette are almost standard throughout the world. There is only a slightly higher percentage payoff to the slot machine player in the downtown casinos, but that is the only real difference between the casinos downtown and those located on the Strip.

7. Slot machines. A substantial amount of money is lost to slot machine cheaters each year. A book listing every known cheater is used by the casinos to keep those people away from the slot machines. A casino will not be cheated if it knows who the cheaters are, but it is the people about whom the casinos know nothing who cause most of the problems in this area.

TESTIMONY OF:

• Steve Wynn, President, Golden Nugget Gambling House
AUGUST 21, 1975

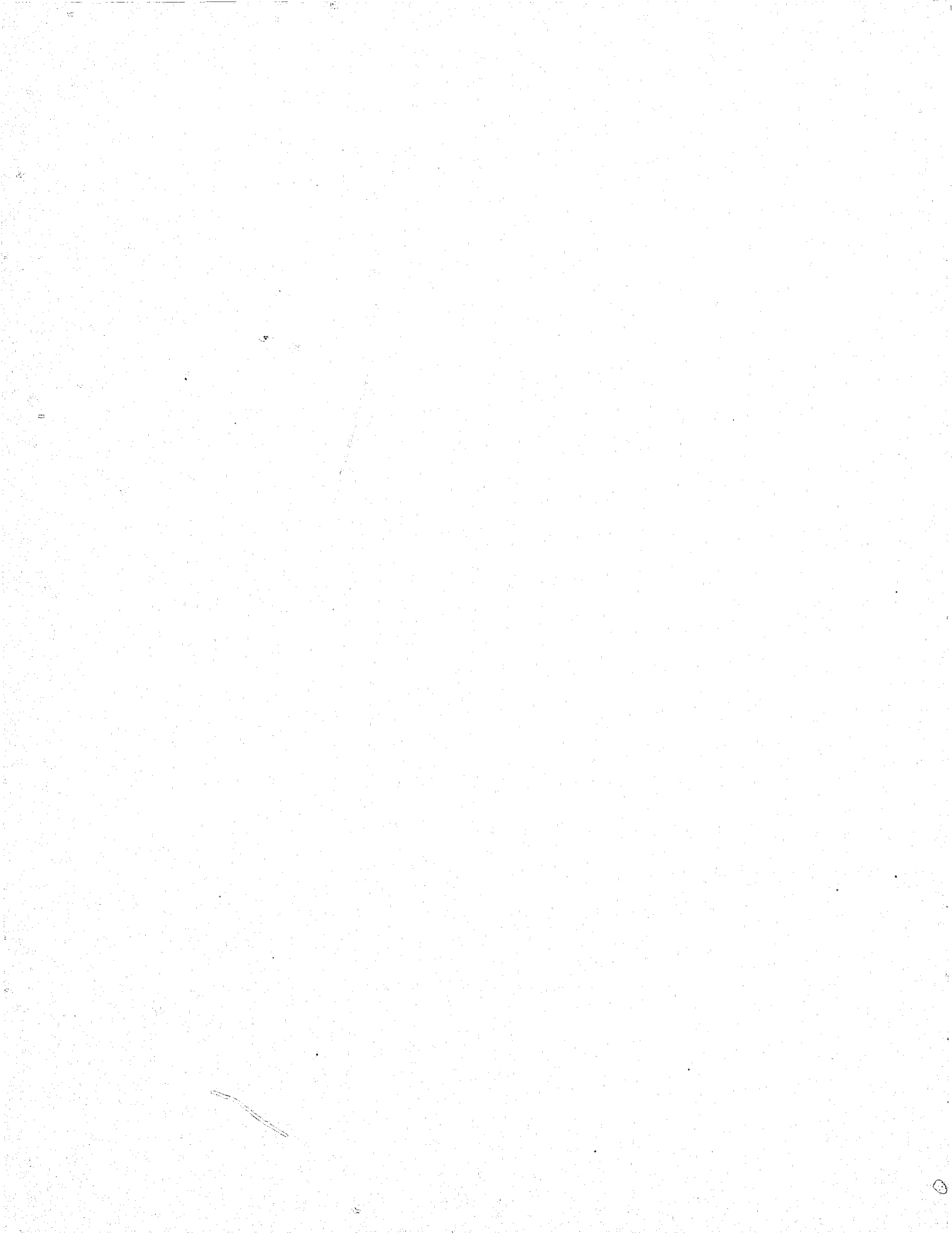
There are a couple of areas in downtown Las Vegas where the percentage is a little better for the player, and they are significant. Customers are allowed double odds on craps at the Golden Nugget and at Binion's Horseshoe, which significantly reduces the percentage against the player. Downtown casinos also pay triple for 12 in the field in craps, which means that the entire betting field has a better bet than it would have on the Strip.

Questioning by Commission members covered the following topics:

1. Downtown casino promotion. The nature and composition of the downtown traffic is a somewhat controversial subject. The Strip and downtown each have their own customers who determine how the businesses should be operated. The casinos downtown cater to the tourist class who in many instances stay at hotels on the Strip but come downtown because they feel uncomfortable in the high-stakes atmosphere found on the Strip. Promotion in the gaming industry can vary greatly from operator to operator. The Golden Nugget offers the best food in the city in an elegant atmosphere that is not usually seen in the downtown area. A bettor who buys a \$25 chip is not 25 times a better customer than the man who bets with \$1 chips. The latter is someone who likes to gamble and makes a point of it. The fellow who bets a dollar at the Golden Nugget might be on his way from Los Angeles to Salt Lake City, but that is where the profit is made, in the merchandising of that area.

2. Layout of a casino. The slot machines are generally lined up at the main entrance so that the customers have to walk through them in order to reach the pits. The blackjack, 21, and baccarat games are clustered at the center of the casino, close to the cage, the restaurant and the bar, so that credit transactions or movement of chips can be speedily accomplished. A high roller, whether successful or unsuccessful, is very happy to move over to another high limits game.

3. Downtown profits versus the Strip profits. The 22 percent profit from the net revenues at the Golden Nugget is higher than those found on the Strip. A casino on the Strip is lucky to make a 10 percent profit before taxes. But the Strip casinos earn much greater profits than the downtown casinos because their volume of business is so much greater.



TESTIMONY OF:

• Bruce Babbitt, Attorney General of Arizona

AUGUST 22, 1975

Illegal gambling exists in Arizona, but its legalization in the State would not significantly reduce organized crime activity and would add to the problems that already exist in the State's regulation of greyhound racing.

Public attention has been focused on an economic dispute between greyhound breeders and the greyhound tracks in Arizona that has called into question the regulatory responsibility of the Arizona Racing Commission. The greyhound industry exists as a monopoly in Arizona and is protected and reinforced by certain statutes in the Arizona Racing Code. The existence of the monopoly has made the regulatory efforts of the racing commission ineffective.

All racing permits except one are issued annually to two corporations, American Greyhound Racing, Inc., and Black Canyon Greyhound Racing, Inc. Both American and Black Canyon are owned jointly by Funk's Greyhound Racing Circuit, Inc., and Ramcorp Metals, Inc. The Funk family is the local management operator for the licensees; Ramcorp is a successor to the former Emprise Corporation and holds consultant contracts with the licensed operators. The Funk family also owns 51 percent of Western Racing, Inc., which is the holder of the remaining greyhound license in the State.

Section 5-110 of the A.R.C. provides that: ". . . in the event there is a conflict in dates requested between two or more permittees in the same county for the same kind of racing . . . the permittee whose application is for substantially the same dates as were allotted to him in the preceding year shall be entitled thereto in preference to any other permittee." The statute further allows two or more permittees to agree to an allotment of dates and thereby receive preference over any other permittees. This eliminates competition for racing dates by permitting the licensees to maintain a priority position in receiving racing dates. Once a monopoly position is achieved, it is sustained by statutory preference.

As a form of legalized gambling, the greyhound racing industry is, at least on the books, a strictly regulated operation, but the racing commission has not made effective use of its powers. The problems do not exist with the commission, but are inevitable byproducts of the monopolistic structure of the industry. The very regulatory authority of the commission is challenged by an industrywide monopoly. There is an obvious problem in policing a greyhound racing industry that has

power to produce an orchestrated response from every track in the State. One suspension or revocation might affect the entire industry-- or could destroy dogracing in Arizona. The racing commission stands bewildered before a giant entertainment machine, a major employer, and a huge taxpayer. Meaningful competition would contribute to the general economic health of the industry and serve to strengthen the regulatory authority of the racing commission.

The fact that two of the three stewards at the tracks are in the employ of and subject to the control of track management serves to hamstring effective enforcement of commission regulations. During the boycott waged by the breeders to protest the running of short-field races, the management-controlled stewards refused to join the State steward in enforcing the will of the racing commission.

The Arizona legislature must examine ways to break up the monopoly and diversify the greyhound racing industry into a competitive business. There are no constitutional impediments to doing so, and such an action would not be dependent upon the presence or absence of a criminal conviction. The legislature makes the laws and thus it can also revoke the present laws for the purpose of restoring competition to the industry. This could be done by: (1) Repealing the anti-competitive provisions; (2) limiting the number of racing permits that any individual, corporation, or major shareholder could own directly or indirectly; and (3) providing the racing commission with an adequate appropriation to appoint and pay all three track stewards and to increase the size and quality of the racing commission staff. Monopoly power is the basic problem in Arizona racing, and it must be ended by legislative action.

Questioning by Commission members covered the following topics:

1. Bookmaking in Arizona. The extent of illegal bookmaking in Arizona is unknown. The statutes have not been effectively enforced and there have been relatively few bookmaking prosecutions. Two former State Attorneys General were indicted for bookmaking activities.

2. Organized crime in Arizona. There is a substantial problem with organized crime in Arizona, but the State has no evidence that illegal gambling is the backbone of organized crime in Arizona. The State did not perceive that such a problem existed until 10 to 15 years ago and is just now moving against it.

3. Organized crime in Arizona racing. The State is not aware of any specific organized crime related problem at the local tracks. The monopolistic structure of the industry appears to be the only serious regulatory problem.

4. Increased appropriations for the racing commission. The commission must have the legal firepower to back up its attempts at regulation. More funds should be appropriated to the commission, but that should not be viewed as the total solution to the problem.

TESTIMONY OF:

- William C. Smitherman, United States Attorney, District of Arizona

AUGUST 22, 1975

Gambling prosecutions in Arizona are normally handled by Federal Strike Force attorneys in cooperation with the United States Attorney's Office and have focused on sports bookmaking activities; however, little is known about specific operations. The unavailability of hard statistics is not due to a lack of diligence and ability on the part of local and Federal law enforcement agencies, but is characteristic of bookmaking.

Bookmakers in Arizona appear to deal with a limited clientele who are well known to the bookmakers themselves. One of the greatest obstacles to the identification, investigation, and prosecution of bookmakers is their ability to operate anonymously by telephone. The Federal wiretap statute was enacted in 1968 to attack criminals without unduly compromising individual liberties, but attacks on the statute in the courts have made its use difficult. Another problem is that there is little physical evidence in a bookmaking operation. Bookmaking records are often kept in code and are also susceptible to many plausible explanations. Moreover, gambling accounts in Arizona often appear to be settled in banks rather than on the street. There is little evidence that gambling debts are collected by extortionate means or that usurious loans are taken to meet payoffs.

Public apathy toward illegal gambling has made enforcement of gambling statutes difficult. This apathy is reflected in the sentencing practices of the courts in gambling cases. The convicted bookmaker can simply wait out his probationary period and reenter the business, where the problems of detection, investigation, and prosecution begin again. Our experience indicates that more often than not, however, the convicted bookmaker does not even wait for his probationary status to expire before he resumes his gambling activities.

Despite these difficulties, enforcement of the Federal antigambling statutes is proceeding in Arizona, and encompasses each of the major Federal violations. Cooperation between local, State, and Federal law enforcement agents has been excellent in Arizona. Although the elements to be proven differ between local and Federal violations, the information necessary for successful investigations is often exchanged.

The statutes appear to be satisfactory, and through the diligence of law enforcement at all levels, few gambling businesses in Arizona have been allowed to grow large enough to satisfy the jurisdictional elements of Section 1955 of the U.S. Code. No evidence

has been found to show that any bookmaking operation in Arizona is owned or controlled by members of organized crime. Connections have been discovered between some of the local gambling businesses and gambling businesses in Chicago and Las Vegas, but there has been no indication that organized crime elements in those cities control the local operations. Las Vegas serves as the location from which the local operations receive the betting line and to which layoffs are disposed, but there appears to be no direct connection.

Traditional organized crime elements do not exercise a great deal of control over the local illegal gambling operations for a number of reasons: (1) Local law enforcement agencies are diligent and able; (2) Arizona residents are relatively free of the conditions that have traditionally invited organized crime; and (3) Las Vegas is only hours away for those who want to gamble. Organized crime has for the most part been kept out of local gambling operations; but if gambling were to be legalized, local operations would expand and could present a lucrative target for organized crime.

Questioning by Commission members covered the following topics:

1. Organized crime in Arizona. Arizona does not have a problem with organized crime to the same degree as most areas of the country because of the State's relatively small population and lack of apparent police corruption. Organized crime must have large population centers upon which to prey. As Arizona continues to grow, the problem will increase. The local citizens have a very low tolerance for police corruption.

2. Wiretap laws. The Federal wiretap laws are cumbersome, and often approval to use them arrives too late to be effective in an investigation. The statutes should be modified to facilitate the use of wiretap devices by investigators.

3. Ability to enforce a total ban on gambling. A national policy of no legalized gambling could not be effectively enforced. There are limits to what can be done with available resources. The Justice Department would need thousands more prosecutors, judges, probation officers, and jails to enforce such a policy.

TESTIMONY OF:

- Richard E. Long, Special Agent in Charge, FBI Phoenix Division
- Clark S. Miller, Special Agent, FBI Phoenix Division

AUGUST 22, 1975

The problem of organized crime and illegal gambling in Arizona is minimal when compared to other areas of the country, but despite the efforts made by the State's law enforcement organizations, Arizona is not completely free of illegal gambling. Several self-proclaimed professional gamblers have told the FBI that it is impossible to place a bet in Arizona except during the football season, but sports betting remains popular in the State. Sports betting operations in Phoenix and Tucson have been uncovered that utilized betting line and layoff services from operations in Las Vegas and Los Angeles. Bookmakers in Phoenix offer odds of 11 to 10, but operators in Tucson offer odds of 6 to 5. It is believed that a monopoly exists in the Tucson area because of these higher-than-average odds.

Members of a Chicago organized crime group have allegedly made attempts to establish illegal gambling operations in Phoenix, but with this sole exception it appears that the Chicago group has not infiltrated Arizona.

Investigations throughout the State have revealed that off-track betting operations regularly accept illegal bets on horseraces and dograces, but little evidence exists concerning illegal numbers operations in the State.

Relations between the FBI and local law enforcement agencies are of the highest professional level and have led to both Federal and local prosecutions in illegal gambling and other areas. In two instances, successful prosecutions were made against defendants charged with extortionate credit transactions resulting from fixed card games.

The legalization of gambling would not alleviate the problems inherent in illegal gambling. Organized crime will always be around to claim its share of the large amounts of money exchanged, and related criminal activity such as graft, embezzlement, loansharking, and robbery will not be diminished by legal gambling. Legal gambling could not compete with the services offered by illegal operators and would only create a new influx of bettors who might switch to the more accommodating illegal operation.

Questioning by Commission members covered the following topics:

1. Las Vegas connections. Generally the betting line is obtained through legalized outlets in Nevada and telephoned to the illegal bookmakers in Arizona. This activity violates the Federal statute on interstate transmission of wagering information.

2. Local bookmakers. A stranger in Arizona would find it difficult to place a bet in the State, since bets are usually handled by telephone with the regular clientele. It was estimated in 1971 that \$5 million was bet annually in Arizona, but it appears that the growth in population has tended to increase the betting volume each year.

TESTIMONY OF

• John Goodman, Member, Arizona Racing Commission
AUGUST 22, 1975

The Arizona Rule Book is an adequate code of regulations with one exception: All stewards should be hired by and be under the direct control of the Arizona Racing Commission. Every State tries to provide the highest standards possible in its racing programs, but the States are hampered by inadequate budgets that cannot provide for the adequate testing of animals after a race, security at the tracks, or out-of-State travel for racing commissioners so that they can familiarize themselves with the ideas and experiences of other racing commissions. The Arizona Racing Commission is composed of horsemen actively engaged in the business of breeding and racing and not political appointees who have no knowledge of the sport.

During the 1950's, the problem with Arizona racing was not its monopolistic structure, but rather the scheduling of racing dates. It became established that a track would be given the dates it had had the previous year, or it could switch those dates with another track. It is a difficult situation when people have made large investments in racetracks and racing dates are then changed. The scheduling of horses attending the meet and the purse structure at a track are dependent upon consistent racing dates. If the dates are changed, the economy of the racetracks begins to decline, as it did in Florida.

The tracks and breeders affected by off-track betting should be compensated in the same manner as in on-track betting. The Australian system of off-track betting is the most suitable one that could be employed by the States. The Track Authorization Board in Australia retains 3.5 percent, the government receives 3.5 percent, and the rest is divided among all the tracks in the country. With a few modifications, the Australian system could work in the United States.

There is no need for Federal regulation of parimutuel racing. Racing varies from State to State because of local betting habits. It would be difficult to establish national regulations that would fit the parimutuel needs of each vicinity. A nationwide rule book and uniform testing and licensing regulations would be desirable, but they would have to be administered by the individual States so that they would conform with local conditions.

Questioning by Commission members covered the following topics:

1. Racing dates. By statute, the two metropolitan counties in Arizona each have 120 days of horse- and dogracing, and the smaller counties may be granted 60 days of racing for horses and dogs. If the commission denies a racing date request from an operator in one of the smaller counties, it would immediately lose the dispute in court, regardless of whether or not the State could sustain that many days of racing. Nationwide, the resources available to racing commissions cannot compete with those used by the promoters in the influencing of legislation.

2. Stewards. All three track stewards should be paid by the State, thereby eliminating any allegiance a steward may have to a track above his responsibility to the State.

TESTIMONY OF:

● Frank Poppello, Chief Investigator, Arizona Racing Commission
AUGUST 22, 1975

Law enforcement at a racetrack is unique. Many offenses committed at a track--such as hidden ownership of horses, or the illegal use of drugs--are dealt with differently from regular street crime. Most tracks and racing commissions do not have the resources to provide necessary security measures at racetracks. Federal and State agencies have been a great help to the security section of the Arizona Racing Commission in the successful completion of investigations.

Questioning by Commission members covered the following topics:

1. Postrace testing. Winners of races are usually checked for drugs, as are favored animals that finish in poor positions. Due to monetary restraints the commission sends an average of only 12 specimens a day from a track to be tested. The State veterinarian decides which animals are to be tested, but in the larger purse races all of the animals are sometimes tested if their performance is questionable. Testing is performed by private laboratories that are selected annually through collective bidding.

2. License investigations. Applications for racing licenses are sent to the Arizona Department of Public Safety with a fingerprint card to determine whether the applicant has a criminal record or a known connection with organized crime. The racing commission also requires a bank notification from each applicant, but a financial statement is not required. If further information is needed, the services of Federal and State agencies are utilized by the commission.

TESTIMONY OF:

• Ray Odom, Broadcaster, and President, H.B.P.A., Arizona
Division

AUGUST 22, 1975

Uniform Federal controls are needed for the suspension, penalization, or restriction of violators of standard racetrack procedures, including the testing of animals. The courts are too lenient with these culprits, who place the whole of racing in jeopardy. A violator may be suspended by a State only to have a lawyer obtain an injunction, whereupon the violator returns to the track in full standing until the case is heard months later. An industry-appointed commissioner is needed to maintain the integrity of the racing industry. State racing commissioners are not powerful enough to do the job necessary to eliminate the bad elements in racing. The Arizona commissioners do an outstanding job, but must face criticism and drawn-out court proceedings.

If the tracks and breeders received a fair share of the takeout, intrastate off-track betting would benefit the racing industry in Arizona; however, the Connecticut minitheatre concept would destroy all but the major tracks in the country. The smaller tracks would become obsolete and the bottom would fall out of the breeding industry. Only five or six of the largest tracks would survive. Patrons would ignore small local tracks. The tracks in Arizona would soon fail when faced with direct competition from the major tracks in California.

The broadcasting of horseracing has for years been wrongly accused of encouraging bookmaking. The number of bets placed on horses with bookmakers is very small compared to the wagers placed on football, baseball, and basketball games, upon which there are no broadcast restrictions. Races have been broadcast live from Turf Paradise for years with FCC approval, but the official results are delayed until the start of the next race. The FCC has finally become more lenient in its attitude toward racing news.

Questioning by Commission members covered the following topics:

1. Racing dates and handle. The State has too much racing at the present time. If the racing seasons were made shorter, the handle at the tracks would probably increase tremendously.
2. Racing controls. If the industry could regulate itself, there would be no need for congressional action; but if it cannot, Federal controls should be enacted.

TESTIMONY OF:

• Victor Dad, Greyhound Breeder

AUGUST 22, 1975

The Funk's Greyhound Racing Circuit, Inc. has a monopoly over all greyhound tracks in Arizona. No one else is licensed to race greyhounds in the State. A racing permit is a privilege and should be upheld with honesty. If it is not, it should be revoked.

To promote honest racing in Arizona:

1. State stewards should outnumber track stewards at each track. Many violations of the State racing regulations are not investigated because the track stewards refuse to authorize them.

2. The greyhound industry should be represented on the State racing commission.

3. No racetrack operators should be allowed to own or sublease any greyhounds or be permitted to race them at their own tracks.

4. Charitable donations should be made voluntary, not mandatory. Twenty percent of each week's earnings, including all proceeds from Thursday night racing, is donated to charity, but such donations are not tax deductible. Costs have doubled in the past two years, and the industry is faced with an economic pinch that has not been alleviated by the small increase in handle. Contrary to State regulation, the donation clause is included in the breeder's State racing contract, which he must sign if he wishes to race in Arizona.

Questioning by Commission members covered the following topics:

1. Charitable donations. The greyhound breeders recommend State regulations to resolve the problem.

2. Racing commission and dogracing. A double standard exists in the area of suspensions. If a breeder is suspended for alleged violations, he cannot race his dogs in the State until the case has been disposed of; but if a track is found in violation, it may continue to run the dogs it owns.

3. Regulation of the greyhound industry. Industrywide standards should be adopted, and a commissioner for the industry should be appointed to arbitrate disputes. Regulations should remain within State control, but since the State has allowed the establishment of a monopoly, national controls may be necessary. In the current situation, if the breeders disagree with the Funks, they cannot race their dogs in Arizona; and some are prepared to leave the State if necessary.

TESTIMONY OF:

• Glenn Sparks, Intelligence Unit, Phoenix Police Department
AUGUST 22, 1975

Phoenix has both legal and illegal gambling operations. Under the law, a person may place a bet at a legal horse or dog track or play bingo in certain clubs and churches, but attempts to thwart these legal operations continue. Some persons prefer to bet with illegal bookmakers, but these illegal operations do not appear to be of the magnitude of other forms of criminal activity in the city.

Sports betting appears to be the most prevalent form of illegal betting in the city, but the percentage of the local population participating in illegal gambling operations is unknown. Sports betting is active during most of the year, with greatest participation occurring during the fall and winter months. There is no doubt that football games attract the most bettors.

The police are aware of gambling operations conducted in private clubs, but these operations, some of which are rigged, do not involve a particular person who takes a cut of the action. Numbers operations have not gained a foothold in Phoenix due to effective law enforcement and the geographical size and layout of the city.

During the past four and a half years, the Phoenix Police Department has made a total of 190 gambling arrests. These arrests accounted for only one-tenth of 1 percent of the total arrests made by the force during this period and included violations resulting from the use of illegal gambling machines, lotteries, cards, dice, punchboards, numbers, and bookmaking. Only 13 of these arrests were for numbers and bookmaking violations.

The Phoenix Police Department believes that its enforcement effort is presently adequate to deal with the existing problem, but other factors have helped to keep illegal gambling in Phoenix from being a major problem: For one thing, residents of Phoenix who want to gamble have easy access to Las Vegas, and for another, gambling enforcement activity in Phoenix has been specifically directed toward the elimination of organized gambling operations. Major organized criminal operations have conducted massive fraudulent business enterprises in the city, but no specific group appears to control gambling.

The department has been successful in the prosecution and conviction of gambling defendants. The conviction rate is approximately 87 percent of those prosecuted, but most sentences amount to only small

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fines and suspended sentences for both misdemeanor and felony convictions.

The Phoenix Police Department has not had a problem with corruption under the existing laws prohibiting gambling and does not accept the philosophy that legalized gambling would end corruption.

The current laws are adequate to control illegal gambling operations, but the allocation of available manpower for all matters of crime control, including illegal gambling, will be made on the basis of existing priorities.

Questioning by Commission members covered the following topics:

1. Growth of illegal gambling in Phoenix. Illegal gambling has increased in the past few years and is probably related to the overall increase in the local population.

2. Police corruption. The department's attitude toward police corruption is that if a cop is crooked, it does not make any difference what type of illegal activity he may be involved in. The department has the authority to administer polygraph examinations in any investigation involving a police officer.

3. Wiretapping. Wiretapping is of the utmost importance in organized crime investigations, but for the lesser investigations, it is not absolutely necessary.

TESTIMONY OF:

• Warren Ryan, Sergeant, Tucson Police Department
AUGUST 22, 1975

The enforcement of current gambling laws in Arizona is a major problem. Most of the laws are antiquated and difficult to enforce. It is absurd to permit parimutuel wagering and bingo, but not social wagers between friends. No distinction is made between those engaging in gambling as a business and those involved in gambling for personal profit. Most Arizona antigambling laws are misdemeanors that offer little or no deterrent effect. The public appears to see nothing wrong with placing a friendly bet on a sporting event or playing poker with friends.

The present situation frustrates the officers responsible for the enforcement of gambling statutes and could lead to nonenforcement of the social gambling laws. The police cannot effectively enforce laws that the public does not want enforced. Attempts at enforcement lead to public ridicule, while nonenforcement brings accusations of corruption.

Rigid control is exercised to prevent any unlawful involvement with gambling by police, and Tucson is fortunate that none of its officers has been corrupted. This record can be maintained by the decriminalization of social gambling and the elimination of legal loopholes in the gambling statutes. At the same time, it is essential that the laws related to organized gambling be strengthened.

The lawmakers revising the Arizona Criminal Code are addressing the problem of social gambling and have recommended that it be decriminalized. In very clear language, these lawmakers have noted the differences between social gambling and professional gambling, and in doing so, have strengthened the statutes to preclude the possibility of the organization of social betting. If the legislature enacts these recommendations, the police will be able to utilize their resources more effectively to suppress all illegal gambling.

Questioning by Commission members covered the following topics:

1. Bookmaking in Tucson. Bookmaking activity in Tucson is on a smaller scale than in Phoenix; therefore the bookmaker has to take a larger percentage off the top in order to stay in business. There has been no indication of organized crime involvement in local bookmaking operations.

2. Gambling arrests. Five officers, or slightly less than 1 percent of the Tucson Police Department, are assigned to the enforcement of gambling laws. Only four or five arrests are made each year for gambling violations. These cases are difficult to prosecute and convict. The current force is maintained to control the level of illegal gambling. If the individual assigned to gambling were taken off duty, the level of illegal gambling in Tucson would increase.

3. Numbers. There is no evidence of a numbers operation in Tucson. Diligent efforts have been made to monitor any type of gambling activity in the city--efforts which have helped to keep gambling off the streets. If the population doubled, however, there would be no way a numbers racket could be stopped from operating in the city.

TESTIMONY OF:

● Byron Lewis, Counsel, Turf Paradise, Phoenix, Arizona
AUGUST 22, 1975

Turf Paradise favors whatever controls are necessary to insure the integrity of racing. Uniform regulations are needed in the areas of suspension, penalization, and restriction of violators of standard racetrack procedure. Existing racing rules and regulations are sufficient for the needs of the industry, but they must be enforced. The courts have often overturned rulings made by the State racing commission, thereby lessening the commission's effectiveness. If a national racing commission is needed to resolve the problems faced by the industry, Turf Paradise would favor its establishment.

Turf Paradise has been involved in many court cases in which track stewards have suspended trainers, jockeys, and handlers. Despite Arizona statutes that require suspensions to be in effect for 20 days pending a hearing, the suspended individuals are able to return to the tracks once their lawyers have obtained injunctions on their behalf. In such cases now, Turf Paradise obtains restraining orders against those persons and refuses them access to the track.

Turf Paradise recommends the adoption of State-conducted intrastate off-track betting, but the tracks must continue to receive the same percentages of the takeout as they do from the present on-track betting system.

Turf Paradise would prefer to leave control of the day-to-day operation of racing to the States and not to a national commission, but a national policy concerning rules and regulations as well as such track problems as touts would help solve the problems faced by the racing industry.

TESTIMONY OF:

• Ira Osman, Auditor General, State of Arizona
AUGUST 22, 1975

An investigation of the parimutuel industry in Arizona in 1970 found that the ownership and operation of greyhound racing in Arizona was vested in eight corporations (excluding Emprise Corporation) and one partnership, all having interrelated ownership and management as well as control over various vital contractual commitments. It was also learned that Emprise Corporation of Buffalo, N.Y. and its related corporations owned 50 percent of the common stock of three corporations: American Greyhound Racing Circuit, Inc.; Black Canyon Greyhound Park, Inc.; and Amado Greyhound Park, Inc. The remainder of the stock in these tracks was owned or controlled by Funk's Greyhound Racing Circuit, Inc.

The investigation found that American Greyhound Racing Circuit, Inc., owned 98 percent of the stock of Greyhound Parks and 100 percent of the stock of Yuma Greyhound Park, Inc., and Washington Land Company. All of the issued and outstanding stock of Apache Greyhound Park, Inc., was owned by Black Canyon Greyhound Park, Inc. Further, it was learned that Emprise Corporation owned 100 percent of the preferred stock of American Greyhound Racing Circuit, Inc.

In the late 1960's and early 1970's, all of the stock of these corporations owned indirectly or directly by the Funk family was pledged as collateral for a loan of approximately \$3.75 million owed to the Emprise Corporation. During the period covered by the Auditor General's examination, Emprise had control of all greyhound racing in Arizona.

Questioning by Commission members covered the following topics:

1. State's approach to a monopoly situation. A monopoly, as such, is acceptable, but at the same time, the monopoly must accept full responsibility for activities under its control.
2. Auditing of the greyhound industry. The State developed two financial reports in 1971, but has not been asked to do so again since that time. Additional audits must be requested by the Joint Legislative Budget Committee. The Arizona Racing Commission cannot request these audits without the direction of the Joint Committee.

3. Public awareness of racing in Arizona. Considerable publicity followed the Auditor General's first report and resulted in greater public recognition of State racing activities and of the role played by the Emprise Corporation in these activities.

4. Racing commission appropriations. The amount of appropriations is solely a legislative function. The Auditor General's office is an arm of the legislature and may occasionally have some influence on legislation.

TESTIMONY OF:

- William Georgantos, General Manager, Funk's Greyhound Racing Circuit, Inc.
 - Brian Goodwin, Attorney, and Representative of the Funk Family
- AUGUST 22, 1975

The Funk's Greyhound Racing Circuit, Inc. (Funk's), a corporation wholly owned by four members of the Funk family, has made the greyhound industry in Arizona the success it is today. Funk's is a 50-percent stockholder in several Arizona racetrack corporations: American Greyhound Racing Circuit, Inc. (American), with subsidiaries in Phoenix, Tucson, Amado, and Yuma; and Black Canyon Greyhound Racing Circuit, Inc. (Black Canyon), with subsidiaries located in Apache Junction and Prescott. The remaining stock in American and Black Canyon is owned by Ramcorp Metals, Inc. (Ramcorp) of Buffalo, N.Y. Ramcorp is owned by Sportsystems Corporation, which is wholly owned by the Jacobs family of Buffalo, N.Y. Funk's also maintains majority control of Western Racing, Inc., a public corporation which operates as a lessee at Phoenix Greyhound Park. The Funk family has also been licensed to conduct horse- and dogracing in Colorado, Oregon, and Florida.

It is true that Funk's and Ramcorp together own all but one of the greyhound racing permits in Arizona and that Funk's controls the public company that owns the only other permit in the State, but this "monopoly" is not necessarily bad for the racing industry.

The Funk family expanded their dogracing operations in the 1950's and 1960's because of the State's requirement that there be no more than 120 days of racing in the larger counties, nor more than 60 days of racing in the less populated areas. If year-round racing had been available in Phoenix and Tucson, there would have been no need for the development in the smaller counties of satellite tracks, all of which draw from the metropolitan areas. No other interest wanted to risk the development of facilities outside the Phoenix and Tucson areas, none of which was profitable to the Funk's corporations until recently. The development of year-round racing in northern and southern Arizona has been beneficial to breeders, track employees, the State, and finally, to the Funk family as well.

In their 32-year involvement in racing, the Funk family had never found it necessary or desirable to own their own greyhounds until a contractual dispute arose between the tracks and the breeders that forced the Funks, as individuals, to purchase greyhounds. Although the ownership and racing of animals is legal in Arizona, all of the Funks' dogs are leased to independent breeders who maintain full control over

them. All potentials for conflict of interest have been dealt with in the leasing agreements and are regulated by State statutes, rules, and regulations.

The regulations covering the greyhound industry in Arizona are generally workable and effective and provide excellent protection for each party's rights to due process and court review. Regulation for its own sake, especially in the consideration of national controls, is not desirable. If there were strong evidence, however, that legalized parimutuel wagering in the various States was not being properly enforced in the best interests of the racing public, then some consideration should be given to national regulations. But until that time, there is no need for the creation of a new Federal bureaucracy.

Off-track betting would attract a certain number of patrons away from the tracks and thus cause a loss of revenue to the tracks through parking fees, concessions, and programs. The economic viability of racetracks would be threatened if off-track betting were established. If off-track betting is to exist, a permit should be granted to the track operators. The revenues derived from the wagers at off-track betting parlors should be subject to the same takeout percentages that exist between the track, the owners, and the State in the State's on-track betting arrangement. Off-track betting need not be a parasite; rather, it could exist as an extension of parimutuel wagering that could benefit each segment of the racing industry.

It is difficult to assess what effect the legalization of gambling would have on the racing industry. If casino gambling were available in Arizona but not elsewhere, it is conceivable that it would have a favorable effect on the entire entertainment industry through increased tourist trade in the State. But if gambling were legalized nationwide, tourism would not be encouraged, and the additional forms of gambling would be detrimental to the racing industry.

Questioning by Commission members covered the following topics:

1. Charitable donations. It is not clear if the Funk family claimed an income tax deduction for their contributions to charity programs; such donations have included the 20 percent of the breeders' purse that is, by contract, deducted from their earnings. It is uncertain, however, if the wages of concession personnel are deducted and contributed to charity.

2. Ownership of tracks. There are definite advantages in the present manner of ownership of the tracks in Arizona. It allows the companies to employ year-round management personnel and maintains

year-round availability of local tracks to local breeders who otherwise might have to move out of the State at the end of the Arizona racing season. Even today, no racetrack operator would be interested in buying any of the smaller tracks individually because it would not be a financially sound business venture.

3. Competitive bidding for racing permits. As the smaller tracks have become more successful, their value is now such that the Funks would not want to sell them. It is questionable whether an outside operator would be willing to pay the price of investment that has been made by the Funk family.

4. Boycott by breeders and subsequent restriction by tracks. The Funks have a voice in who can bet and/or race at their tracks, but they have never denied any qualified breeder the privilege of racing his dogs at any of their tracks. Access to a track can be denied to a breeder if proper cause is shown, and such access can be denied at other tracks if there is sufficient cause to warrant such action. Breeders who boycotted the tracks were not blacklisted or denied access to tracks outside the State. A list of those participating in the boycott was sent to tracks around the country to inform them that those breeders were under contract to Arizona tracks for that particular racing season and that those breeders were obliged to fulfill their contracts in Arizona. But it would not have been illegal for other tracks to sign them up under those circumstances.

5. State regulatory capacity. Benefits received by the State from greyhound racing do not interfere with its ability to regulate the industry. The policing of the industry is welcomed by the operators. A larger staff and more funds are needed by the racing commission so that it can adequately test all the animals in a given race.

6. Financial discrimination against legal gambling operations. The normal financing methods and institutions have discriminated against dogtracks. Such investments may be viewed as high-risk ventures because State licenses are subject to revocation, and such operations are not year-round activities. Most leading banks and financial institutions are reluctant to finance racetracks.

7. Emprise. Hearings have been held concerning the possible divestment of Emprise interests from Funk holdings, although Emprise never had complete control over greyhound racing in the State. The actual decisionmaking control has always remained with the Funk family.

Statement of Brian Goodwin

The loans made by Emprise to the Black Canyon and Amado race-tracks have been paid off, as has the loan of more than \$2 million that Emprise solely guaranteed at the National Bank of Detroit. The National Bank of Detroit has extended further credit to American Greyhound Racing Circuit, Inc., but all pledges concerning those loans are shared equally by the Jacobs' Sportsystems Corporation and the Funks, with the Funks maintaining exclusive management control.

TESTIMONY OF:

• Roman Sawark, Phoenix Citizen

AUGUST 22, 1975

Less than a year ago there were four bookmakers in Arizona, but due to the efforts of Federal and State law enforcement agencies, these bookmakers have disappeared. Phoenix appears to be the only major city in the country where it is impossible to place a bet with a bookmaker. Bookmakers come to Arizona during the football season, but this year it is impossible to find one. Usually when there has been a crackdown on bookies, they reemerge after two or three weeks, but that is not the case in Phoenix at the present time. Law enforcement officials continue to question the bettors and eventually are able to find the bookmakers, who now are reluctant to operate in Phoenix.

Questioning by Commission members covered the following topics:

1. Legalization of gambling. The legalization of all forms of gambling would probably not work out very well, but a State could legalize football cards, poker games, bingo, and other minor forms of gambling.

2. Betting habits. If a bookmaker cannot be found, bets are made with friends on about 10 to 16 football games each week. Betting on televised games enhances weekend television viewing. Local bookmakers rarely accept bets in excess of \$300; many of them can be beaten because their odds often favor the bettor. No one bets on horses; the odds on horse and dog bets make it impossible for the bettor to come out ahead.

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TESTIMONY OF:

• Samuel K. Skinner, U.S. Attorney for the Northern District of
Illinois
SEPTEMBER 23, 1975

The problems of gambling in this country and the widespread ramifications it has in the political, business, social, and criminal areas of our society cannot be overemphasized.

The most prominent result of illegal gambling in Chicago is the generation of huge sums of untraceable cash for use by organized crime in a variety of activities.

The ability of local and Federal law enforcement officers to deal with the gambling problem has not markedly improved. In the local courts that hear the majority of gambling cases, cases are "nolle prossed," dismissed, or plea bargained to such an extent that "deterrent" becomes a meaningless word. Insignificant fines are routine for a firstline gambler, and well-insulated bosses operate with impunity.

Law enforcement at the Federal level is directed toward large-scale gambling operations. The most exciting prospect for future involvement in this area seems to be the utilization of civil remedies to frustrate organized gambling activity and to syphon off its revenues. A civil injunction coupled with appropriate relief in cases of noncompliance is a promising method of enforcement.

Section 1964 of Title 18 provides the statutory authority to enjoin any person from engaging in violations of a variety of Federal statutes, including the gambling and racketeering sections of the law. The corresponding reduction in the evidentiary burden necessary to implement this injunction--as opposed to prosecution of a criminal violation--is a marked advantage to a Federal prosecutor. Punishment for noncompliance with court orders entered pursuant to Section 1964 ranges from fines and forfeitures to incarceration. This course of prosecutive action is a far simpler and more expeditious task than traditional means of prosecution.

New approaches to research and treatment are needed to solve the problem of gambling enforcement in this country. Any research involving the legalization of gambling should also include consideration of minimum mandatory sentences and the incarceration of persons who continue to operate illegal gambling establishments.

Questioning by Commission members covered the following topics:

1. The lottery and bingo. The lottery and the legalization of bingo have not had any significant effect on organized crime's gambling activity.

To abolish the lottery and bingo would not solve the illegal gambling problem.

2. Public awareness. People must learn to differentiate between legal gambling, where revenues are generated for the State, and illegal gambling, where revenues are generated for organized crime. Only when this distinction is made between the vastly different types of gambling will strict enforcement of gambling laws become possible.

3. Sports betting. Clandestine sports betting, especially on football, is an extremely lucrative source of revenue for organized crime in the Northern District of Illinois. Sports betting is highly popular among American males.

TESTIMONY OF:

• Peter Vaira, Attorney in Charge, U.S. Organized Crime Strike Force,
Chicago, Illinois

SEPTEMBER 23, 1975

Since the passage in 1970 of statute 18, U.S.C. 1955, the "illegal gambling business statute," the large sports wirerooms in the Chicago area have somewhat decreased in number. Gamblers no longer combine in huge operations because it is easier for them to be found out.

The gambling laws have forced organized crime's "modus operandi" to change. However, gambling is still a multimillion dollar business in the districts covered by the Chicago Strike Force.

Sports betting is the largest gambling operation in the district, but numbers betting is also extensive, generating approximately \$10 million to \$15 million a year in the northern part of Indiana alone. Most of the money goes into the coffers of organized crime and finds its way into the hands of corrupt politicians.

In order to make an impact on the gambling business, new techniques must be found and used. Because criminal prosecutions are not having a great deterrent effect, the taxing statutes must be used much more. There is currently a wagering tax administered by the U.S. Bureau of Alcohol, Tobacco and Firearms which has great potential. Presently there are some bureaucratic problems in enforcing the civil law elements of the tax, but when there is greater implementation, it will become much more effective.

Civil injunctive proceedings against gamblers were established in the Chicago districts under 18 U.S.C. 1964, called the Ricco Statute. These proceedings are powerful because once an injunction is obtained against a gambling operation, the participants are enjoined from all facets of gambling. Defense lawyers and Federal agents indicate that gamblers would prefer to be indicted rather than to take this injunction, because it amounts to a lifetime probation.

Topics covered during questioning by Commission members included the following:

1. Gambling and organized crime. At the top level, all gambling is controlled by organized crime figures, in that they profit from it.
2. Fight against organized crime. The fight against the organized criminal syndicate has been successful. However, more work has to be done. Presently the most used tool is probably Section 1955; in the future, Section 1964 will probably be used at least half of the time. The FBI is

very enthusiastic about Section 1964 and is holding classes for its personnel on the provisions of the law.

3. Amendment to 1955. An amendment to Section 1955 lowering the minimum number of participants in the illegal gambling business, or the lowering of the jurisdictional amount to \$2,000 a day or \$30,000 a month would not facilitate prosecutions, because the gambling operations are always very large, and the minimum statutory requirement has always been exceeded.

TESTIMONY OF:

- Richard G. Held, Special Agent in Charge, FBI, Chicago Division
- Robert Dolan, FBI, Chicago
- William Roemer, FBI, Chicago

SEPTEMBER 23, 1975

In Chicago and its environs, millions of dollars are spent each year on various legal forms of gambling, such as the recently established State lottery, bingo, and parimutuel betting at the racetrack. However, millions of dollars are also wagered on illegal gambling operations and are used to finance organized crime operations.

A recent investigation of a known Chicago illicit on-track betting operation found the operation had monthly handles of nearly \$450,000. Chicago's largest known policy game had an estimated handle of \$10 million annually. Bolita, a gambling game popular in Chicago's Latin community, produces an estimated \$3 million in profits each year. The numbers game, widely patronized by the black communities, makes \$350,000 each month. Sports and horse bookmaking, the most prevalent types of gambling in Chicago, realizes an estimated handle of \$35 million to \$50 million annually.

Organized crime continues to control all gambling of consequence in the greater Chicago area, although to a lesser degree than in the past. This control is exercised either directly or indirectly, through financing of the operation, control of the operators, or control of the loansharks who are always available to back a loser. The extent of syndicated gambling's control and organizational ability was seen during the course of a recent investigation of a large-scale numbers operation in Chicago. By utilizing members of the major Chicago black street gangs, investigators were able to establish a line from the all-black community where numbers is principally played directly to organized crime. This connection challenges the often-stated position that organized crime does not extend into black gambling operations, which are assumed to function autonomously.

To meet its responsibilities under new Federal gambling statutes, the FBI initiated an intensified enforcement program utilizing the tools given it: Since December 8, 1969, the FBI in Chicago has obtained 40 court orders for 109 wiretap installations in major gambling operations. These electronic surveillances, authorized under Title III of the Omnibus Crime Control and Safe Streets Act of 1968, resulted in the arrest and conviction of 103 individuals; in addition, \$21,700 in fines was levied. During the raids conducted in these investigations, \$87,649 in cash and gambling paraphernalia valued at \$32,000 were seized. Through the application of other Federal statutes during this same period, 81 more people were convicted and \$30,000 in fines was levied.

One recent innovation of the Chicago FBI in its gambling enforcement effort has been the application of civil process against a large gambling

operation once the Title III electronic surveillance has ended. Although this technique is still not fully tried, it is far-reaching in its potential for application to present day illegal gambling enterprises.

A recent attempt to change gambling habits has been made in Chicago. Certain individuals have established a business relationship for the purpose of accepting wagers on local horseraces and then acting as "couriers" for these wagers to the track. This is done for a fee, and, it is contended by the company operators, is completely legal. Local authorities consider the action tantamount to off-track bookmaking and therefore illegal in Illinois. Although the legality of the matter has not been fully adjudicated, the action does suggest a future trend in gambling operations.

Too often, minimal sentences or even small fines are meted out to major underworld figures, and FBI sources indicate that such sentences are regarded by the hoodlum element merely as a business expense. Illegal gambling should be regarded as the evil it is, and appropriate sanctions should be invoked. Society is faced with a serious threat in the continued existence of illegal gambling. The FBI has the expertise and the legislation to curb all gambling. However, it is necessary that investigators, prosecutors, and the judiciary exercise their responsibility as prescribed by law.

Topics covered during questioning by Commission members included the following:

1. Estimated impact on illegal gambling. Although officials in the Department of Justice estimated that the Department's Organized Crime Section reaches only 2 percent of the major gambling operations, the Chicago division of the FBI claims a greater impact, calling the Justice Department's figure "incredibly low."

2. Continued use of wiretapping. An amendment to Title III of the Omnibus Crime Control Act of 1968 to continue wiretapping is not necessary, as law enforcement tools are sufficiently effective now.

TESTIMONY OF:

• Charles Siragusa, Executive Director, Illinois Legislative Investigating Commission

SEPTEMBER 23, 1975

(This testimony reflects the personal beliefs of Mr. Siragusa, not the position of his commission.)

Three reasons are often given in support of the legalization of gambling. The first, that legalization would eliminate underworld activity, constitutes wishful thinking. Legalized gambling would not compete with syndicated illicit gambling, but instead would expand the gambling market. It would not remove the underworld from that lucrative business.

The second argument, that people will gamble whether it is illegal or not, is valid. But that argument is based on a misunderstanding of the relationship between people and the law. At the heart of this misunderstanding is the false assumption that because a law is broken, it should be repealed, or that because people break the law, they want it repealed.

The third argument, that it will provide revenue for the State, may also be true, although there is considerable reason to suspect that the benefits would be short-lived, and that before long, the State would be seeking another means of quick revenue.

In recent years a disrespect for the laws of this country has been created, simply because for the most part lawbreakers go unpunished. In 1964, an ILIC investigation of statewide illegal gambling activities revealed that out of 11,583 arrests made that year for illegal gambling, only 11 persons were actually sentenced to jail, for terms of 1 to 30 days. Almost 75 percent of the cases were dismissed and the remaining received small fines.

In 1973, an investigation was conducted of criminal practices in Illinois parimutuel wagering, involving "fixing" of trifecta races, evasion of income tax, and fraudulent classification of thoroughbreds. That investigation resulted in the drafting of a new horseracing statute, recently approved by the Illinois General Assembly. The point is that this legal, parimutuel wagering activity will not stop syndicated gambling.

The best way to punish violations of the gambling law is to impose fines commensurate with the nature of the violation. Putting gambling offenders in prison only strains an already overcrowded prison system, whereas steep fines could help make a gambler's risk much less profitable. However, even this remedy will not work unless the courts demonstrate a willingness to impose these fines--a willingness that has not been evident in the past.

For this country suddenly to approve an activity which it has spent its entire history condemning would be an act of utmost hypocrisy. For this country suddenly to endorse and promote various forms of gambling would place it on the level of the very racketeers it has spent years trying to prosecute.

Questioning by Commission members covered the following topics:

1. Legalized gambling. The issue of legalized gambling should not be left to the voters. Every effort should continue to be expended toward suppressing illicit gambling.

2. Gambling prosecutions. To say that prosecutions of gambling operators have had a significant impact upon society is untrue because the public still gambles, and illegal gambling operations still exist and make a lot of money.

3. Gambling fines. The law could be structured to include a "minimum mandatory economic fine" provision, which means that if a gambling operator is arrested with a large quantity of money in his possession, the money would be confiscated, much like the IRS does with a jeopardy assessment.

TESTIMONY OF:

- J. Terrence Brunner, Executive Director, Better Government Association
 - Peter Manikas, Research Coordinator, Better Government Association
- SEPTEMBER 23, 1975

Statistics from police departments throughout Illinois indicate that enforcement of State gambling laws has no significant impact on organized crime in that State.

In 1973 and 1974, 15,000 gambling arrests were made in Cook County. Of these arrests, only five indictments were returned, charging a total of six defendants with felonies. The remaining arrests were dropped or disposed of as misdemeanors. As of January 1975, only one person was in the State prison as a result of a gambling conviction.

Local enforcement of gambling laws is not only ineffective in combating organized crime in the Chicago area, but is racially biased as well. Police department figures reveal that in 1973, blacks accounted for more than 83 percent of all gambling arrests in Chicago. It is absurd to suggest that 83 percent of the gambling activities in the city takes place in the black community. This discriminatory enforcement endangers the effective enforcement of the law and heightens police-community tensions.

In Chicago, the police department has already made the judgment that the gambling laws do not have an impact on organized crime. The police, in not emphasizing gambling law enforcement, say they are merely reflecting the moral attitude of the people of Illinois toward gambling. It is not necessarily true that organized gambling is the lifeblood of organized crime. FBI intelligence reports on gambling are often inaccurate and over-emphasize the importance of gambling to organized crime.

One of the side effects of the present organized crime law enforcement program is the invasion of people's rights through the use of wholesale wiretapping; there are 109 wiretaps in Chicago at the present time.

FBI intelligence estimates indicated that 95 out of 120 local police chiefs in Alleghany County, Penn., were corrupt, largely because of gambling. The Organized Crime Section of the U.S. Justice Department seems to feel that officials are corrupted because of the gambling laws of the various States. It might be time to decide that the way to do away with public corruption is to decriminalize or legalize gambling.

Questioning by Commission members covered the following topics:

1. Public corruption. The issue of public corruption is more important than the social ills of gambling. In addition, the need to protect

people from robbery, murder, and rape outweighs the need to use police manpower to control the so-called victimless crimes.

2. Sports betting. Sports betting is probably the biggest gambling activity in Chicago, with football attracting the most bettors. Although the sports community claims that legalized sports betting would corrupt the sport and change the nature of the fan, it can be argued that legalized gambling would work in the opposite direction, as everything would be open to public and official scrutiny. However, the sports community would have to set up a security system at its own expense to control improper contacts between gambling operators and the athletes.

3. Legalized gambling. The States are past the question of whether or not gambling should be legalized. The question is how and in what fashion.

TESTIMONY OF:

• Virgil W. Peterson, Former Executive Director, Chicago Crime Commission

SEPTEMBER 23, 1975

The growing advocacy in recent years for the legalization of various forms of gambling is based on the premise that people in substantial numbers will always gamble and, therefore, that government, through licensing or direct operation, should provide the facilities for those who want to gamble. In doing so, government can also raise needed revenue. Attempts to control an activity with grave social implications, such as gambling, and to raise revenues at the same time, tends to remove adequate control. The constant quest for more revenue makes it expedient continually to expand the activity, not to limit it.

Ever since the revival of State lotteries began in New Hampshire in 1964, very few States have achieved the rosy revenue figures promised by lottery proponents. Since the early 1970's, most lotteries have promoted themselves as a "get rich quick" scheme. This is remarkable in an era when great emphasis is constantly placed on the need to protect the consumer. States make no disclosure of the true odds against the purchasers of lottery tickets, even though a substantial number of them cannot afford to gamble.

Lotteries are among the most expensive, inequitable, and wasteful methods that could be devised for raising State revenue. They are a regressive tax paid in part by those who can least afford it. And when viewed in the light of the total fiscal needs of a city or State, the revenue from lotteries is inconsequential. Yet as the revenues from one form of legalized gambling fail to meet the projections of its proponents, we are urged to adopt other forms and given bright prospects of the huge amounts of revenue they will produce.

The Wall Street Journal on October 21, 1974, aptly pointed out that "all the hoopla over legalized gambling overlooks the fact that such revenue adds only a couple of percentage points to total income in most states." Furthermore, legalization results in an erosion of the law enforcement effort. As a practical matter, the police, prosecutors, and judges will not become very concerned over illegal numbers or policy racket operations if the State itself is engaged in selling lottery tickets. And State-sanctioned or State-operated gambling ventures can never compete on an equal basis with the professional illegal gambler.

Most serious studies have concluded that the legalization of gambling has virtually no impact on the illegal gambling ventures operated by the underworld. The contention that the general legalization of gambling will drive the underworld and organized crime out of gambling is a myth that has been completely disproved by actual experience. In fact, it has been proven that in many instances underworld forces, often working behind the scene,

have been among the prime movers in campaigns to legalize gambling. And where centers of legalization exist, these forces serve as magnets that attract organized crime elements, both as patrons and as operators of large-scale gambling ventures.

Despite assertions to the contrary, the legalization of gambling removes neither the incentive nor the opportunity for corruption. In fact, major scandals involving some of the highest officials of Illinois--including a Governor, legislators, and others--have been linked to legalized parimutuel horseracing. Regulations of any kind on any business or activity create a possible conflict between those regulated and those enforcing the regulations, thus giving rise to opportunities for corruption.

In England, the Betting and Gaming Act of 1960, which permitted the licensing of betting shops, had the effect of legalizing virtually all forms of gambling. The act was intended to control excessive gambling; in practice, however, the act had the opposite effect. On June 1, 1961, licensed betting offices totaled 8,802; a year later, the number had jumped to 13,340; by June 1965, there were 15,638. By the middle of the 1960's, gambling was believed to be the number one social evil in Great Britain.

Inevitably, the legalization of gambling will greatly increase the volume of wagering and will prove attractive to the underworld. This is true whether gambling is licensed or operated by the government. It is ethically indefensible for the government to engage in the gambling business.

Questioning by Commission members covered the following topics:

1. Disclosure by lotteries. The National Gambling Commission should consider recommending to the Federal Trade Commission that lotteries be required to disclose the odds against winning on their tickets.
2. Casinos and organized crime. It is questionable whether or not the organized crime element has been eliminated in a lot of the top casinos in Las Vegas.
3. Enforcement. Although no law enforcement agency can totally eliminate illegal gambling, proper enforcement can keep it at a low level.

TESTIMONY OF:

• Stephen A. Schiller, Executive Director, Chicago Crime Commission
SEPTEMBER 23, 1975

Legal gambling and illegal gambling are both big businesses in Illinois. In 1974, more than 7 million people paid admissions at thoroughbred and harness racetracks in the State. There were more than 5.9 million customers in Cook County alone that year, and more than \$745 million was bet. With regard to the legal lottery, more than 258 million 50-cent lottery tickets were sold between July 1, 1974 and June 30, 1975; the Illinois treasury received at least \$57.8 million of the \$129.3 million gross sales.

Although gambling may not be under the control of a monolithic organization, as it was in the past, illegal gambling syndicates still prosper; several unrelated multimillion dollar operations take bets from different segments of the population at the same time.

Gambling laws in the Chicago area are not strongly enforced. The Chicago Crime Commission found that nonenforcement of the gambling laws is most clearly evident in the courts; in Chicago in 1973, there were more than 6,900 arrests for gambling, but only three of the defendants arrested were indicted for a felony offense. In 1966, there were 346 indictments; by 1974, there was only one. It is interesting to note that, with one exception, all of the pending indictments in 1975 were of black males from the inner city in their late thirties.

The Chicago Crime Commission made a study of virtually all gambling cases brought before the Chicago municipal courts between November 11 and November 22, 1974. During the 2-week period studied, 121 defendants were charged with gambling offenses--16 with the felony charge of syndicated gambling, 67 with State misdemeanor charges, and 38 with city ordinance violations. The misdemeanor charges that were filed dealt with bookmaking, policy operation, and the keeping of a gambling parlor. The Chicago Crime Commission has been told by the Chicago Police Department's vice officers that policy operations and dice games are found in the black community; wireroom operations taking bets primarily on sporting events are concentrated in white neighborhoods; card games take place in both; and bolita is centered in the Latin community, although it was found that many suburban businessmen are buying bolita tickets through their Latin employees.

The conviction rate for gambling cases is much lower than one would expect to find in the prosecution of criminal cases generally. The number of guilty pleas in gambling cases is also very low, compared with the rate of guilty pleas entered in other kinds of criminal prosecutions. The low percentage of guilty pleas reflects the perception of defense lawyers and defendants that gambling violations are not likely to be treated very seriously.

The putative purpose of penal laws in the United States has traditionally been to prohibit or restrict proscribed conduct. The purpose of gambling laws presumably is to keep people from gambling, rather than insuring that gambling is conducted fairly.

There are high costs to a governmental policy of prohibition. There will inevitably be large illicit gambling operations. Enforcement of an activity prohibited by law but condoned by society will invariably be weak, as it was with regard to the Volstead Act; the integrity of the courts will be brought into question; and corruption of the police is almost inevitable. There is, however, a proper role for the government in insuring that gambling operations be run honestly. In addition, the regulation of public advertising of gambling is both necessary and proper. But for government to ban an activity such as gambling, which large numbers of people want to engage in and which community leadership is evidently willing to supervise, is an exercise in futility.

The result is that the state of affairs revealed by the Chicago Crime Commission studies is bound to continue until gambling is regulated, rather than prohibited--or, alternatively, until the community shows that it favors prohibition of this kind of activity.

TESTIMONY OF:

- Terence F. MacCarthy, Executive Director, Federal Defender Program,
Northern District of Illinois

SEPTEMBER 23, 1975

If there is a problem with our criminal laws, it is not with having too few laws, but rather with having too many.

The thrust of the most recent Federal legislation is not aimed at gambling per se, but at the influence of organized crime on gambling operations.

18 U.S.C. 1955 is expressly aimed at organized, syndicated-type gambling or large-scale gambling. However, the aim of 1955 is not being met today, and its enforcement provisions are presently costing the Government a great deal of money.

Over the past several years, it has been shown that 18 U.S.C. 1955 defendants represented by the Federal Defender's Office are not major organized crime figures. In fact, most of them are not involved in organized crime. Ninety percent of the defendants sentenced in gambling cases received probation: This is not due to any leniency on the part of Federal judges in the Northern District of Illinois, for when there has been any organized crime involvement, sentencing by these judges has been very severe.

The enforcement of 18 U.S.C. 1955 usually involves wiretaps. The mere accumulation of wiretap evidence is an exceptionally costly provision of the law. In addition, there is the Government's prosecuting cost, and the Government ends up defending many of the defendants in these rather lengthy gambling cases.

Minimum mandatory sentences will result in a great deal of bad law. They will also greatly increase the number of cases that go to trial.

Topics covered during questioning by Commission members included the following:

1. Money bails. Money bails are the exception rather than the rule. Most of the defendants in the Northern District of Illinois are released on their own recognizance.

2. Types of gambling cases. The main type of gambling case that comes into the Office of the Federal Defender is the 18 U.S.C. 1955 case.

TESTIMONY OF:

• James J. Doherty, Public Defender, Cook County, Illinois
SEPTEMBER 23, 1975

According to statistics from the December 16, 1974, issue of U.S. News and World Report, organized crime's take from gambling costs the American public \$30 billion a year. If gambling were legalized, that \$30 billion that in effect is "saved," plus the tax revenues derived from legalized gambling, would more than cover the cost of the entire criminal justice system. If gambling were legalized on a Federal level, State legislatures would follow.

One peripheral advantage would be that if gambling were decriminalized, penal facilities, judges, police, and prosecutors would be freed to handle more serious offenses. Indigent clients of the Public Defender would not have to languish in jail waiting their turns on overcrowded court dockets.

Questioning by Commission members covered the following topics:

1. Wiretapping. Wiretapping is an invasion of privacy and should not be practiced.
2. Mandatory fines. Mandatory fines would have no effect on organized crime.
3. Mandatory sentences. Mandatory sentences would take away judicial discretion, which is fundamental to the judicial system in this country.

TESTIMONY OF:

• Chester L. Blair, Vice President, Cook County Bar Association
SEPTEMBER 23, 1975

Unless the overall effect of gambling legislation is to control social behavior, whether such legislation can be justified becomes an issue. Gambling as a consensual transaction generally occurring in a private setting is remarkably resistant to such control.

Law enforcement is most effective when an offense not only is reportable by a complainant but has high public visibility. On the other hand, enforcement is weakest when the crime not only is victimless but is hidden from public view. The latter is the case with gambling.

There is a growing objection to gambling laws that does not relate to unenforceability: The laws do not meet the needs for which they were created. Instead of eliminating social problems, they tend to create others. Enforcement of gambling laws is expensive in terms of money and personnel. Frequently, the police will adopt legally questionable techniques to investigate a gambling crime, which may produce secondary crime. In addition, enforcement of the gambling laws tends to overload already overcrowded court dockets and stigmatize many otherwise law-abiding people with criminal records. This is particularly true of the poor.

The gambling laws are difficult to administer because of the privacy of the activity and the consensual relationship of the participants. The use of wiretapping as an enforcement device raises serious constitutional questions. The home of a poor black is invaded with impunity when a law officer believes a crime is taking place inside. Often these invasions do not reveal any criminal activity, or, when arrests result, the defendants are discharged in court because of illegal invasion.

The economic effect of the ban on most forms of gambling has served to enrich organized crime, giving it the kind of influence that money can secure. Gambling is believed to be the largest single source of revenue for organized crime.

The legal ban on most forms of gambling in Illinois creates an unfair situation: The financially stable can attend the racetrack to place their bets legally on horses with little inconvenience, while the poor must seek out an illegal bookie or not bet. Gambling laws concentrate on the poor man's folly, rather than the rich man's frills. In addition, the enforcement of laws banning gambling creates police corruption and disrespect for law. Law officers are aware that gamblers regard payments to police as a necessary business expense.

Gambling laws represent a substantial threat to the overall integrity of the American legal system. If the police, prosecutors, and courts are

allowed to divert their energies from the enforcement of gambling laws, they may improve the enforcement of laws affecting major crimes.

Questioning by Commission members covered the following topics:

1. Discrimination. The enforcement of the existing laws adversely affects the poor black to a much greater extent than any other class of society. It is not known whether the police are purposely trying to create more problems for blacks, or whether the police just happen to spend more time in the black neighborhoods. But the kinds of raids that are common in black communities are rarely conducted in white neighborhoods.

2. Impact of lotteries. On the whole, the Illinois lottery has had little impact on the operation of the policy game.

3. Victim compensation. Although some means of compensating victims of unjust gambling arrests and other gambling law injustices would be desirable, caution must be exercised: Corrupt policemen could change the circumstances of an arrest to insure a conviction in court. One remedy to the injustices created by present gambling laws would be to lift the ban on many forms of gambling that exist in the State.

TESTIMONY OF:

- Jason E. Bellows, Chairman, Criminal Justice Section, Illinois State Bar Association

SEPTEMBER 23, 1975

There are two phenomena associated with gambling: That people will gamble regardless of the laws against it; and that the portion of the taxpayer's dollar used in gambling enforcement has increased greatly, with the taxpayer receiving very little in return.

The legalization of gambling should be seriously considered, as well as the creation of a State or other governmental monopoly to oversee all gambling activities. The legalization of casino-type gambling could raise much-needed revenue for the State; while the legalization of numbers and bolita could bring the "runners" into the system, in the same way that the corner barber now collects money for lottery tickets. In this way the vast law enforcement structure that has arisen in the gambling area can be done away with, and police officers freed for other activities.

With the legalization of gambling, the dollars now spent by State and Federal Government to enforce gambling laws could be put to better use in other areas of law enforcement. The caseload on the court system would be lessened. Most importantly, the hypocrisy that exists--such as when a suburban housewife can legally buy \$2 lottery tickets at the corner store while a ghetto resident who bets 50¢ on the numbers or plays in a nickel poker game faces arrest--would be eradicated.

Questioning by Commission members covered the following topics:

1. Gambling taxation. One way to get around the problem of Federal taxation on gambling winnings would be to allow a credit for gambling losses incurred in wagers placed on games run by State government, much as State income and sales taxes now are a credit off gross income. In this way the legal gambling system might compete with the illegal one.

2. Gambling penalties. In order to keep illegal gambling activities from interfering with legal State-operated or privately-franchised gambling operations, the present penalties should be retained.

TESTIMONY OF:

• Dwight E. Pitman, Superintendent, Illinois State Police
SEPTEMBER 23, 1975

Law enforcement agencies have not been very successful in stopping illegal gambling in Illinois. The many, often complex, reasons for this lack of success include such factors as: Limited police manpower, public apathy, and insufficient penalties. Were legalized gambling to occur on a broad scale, however, the problems of law enforcement would not be lessened. The difficulties of controlling legal, broad-scale gambling are greater than attempting to deal with it as an illegal activity. Legalization of broad-scale gambling would have little effect on the operations and profits of organized crime.

Gambling could be legalized on a very limited scale, but at a pace that insures that the State knows exactly what it is doing. A fair chance element is crucial to any legal gambling operation; whether a State can insure that element by licensing is unclear.

One of the issues advanced by the proponents of broad-scale legalization of gambling is that legalization will end the corruption of police officers by gambling operators. Nothing could be further from the truth: The policeman who can be bought will simply take bribes to ignore a crooked gambling operation. If all forms of gambling were to become legal, the volume of gambling operations would increase. With this increased volume would come competition, and with competition would come crooked operations. The investigative work necessary to make a sufficient case for prosecution requires many police manhours. The ability of the crooked cop to function in that environment would certainly not be removed.

Questioning by Commission members covered the following topics:

1. Enforcement of gambling laws. The disparity among local law enforcement agencies in the way that gambling laws are enforced is due to the various kinds of city structures as well as "an unholy relationship between some officials in the community and the persons operating the gambling operations."

2. Legalized bingo. There is some concern about legalized bingo in Illinois. Although there have been no fraudulent games detected as yet, one must be aware that it is possible to control the array of numbers and the issuance of cards in the operation of the bingo game.

TESTIMONY OF:

- William J. Tomlinson, General Counsel, Bally Manufacturing Company; and
 - Gary M. Stern, Seeburg Industries, Inc.
- SEPTEMBER 23, 1975

Statement of Mr. Tomlinson

Bally Manufacturing Company of Chicago is engaged in the manufacture, sales, and operation of coin-operated gaming devices throughout the world. Bally is a publicly held corporation, and in 1974, it generated gross revenues of more than \$158 million. Manufacturing facilities are located in Illinois; Nevada; West Berlin, Germany; and Dublin, Ireland.

Bally manufactured a limited number of gaming machines prior to the enactment of the Johnson Act (U.S.C. Title 15, Chapter 24, Sections 1171-77) in 1951, but discontinued manufacturing them until 1961. In that year, the Illinois Supreme Court held that the manufacture of gaming devices for shipment to jurisdictions where they are legal was not proscribed by State law. The Illinois State legislature subsequently exempted the manufacture and shipment of gaming devices from its antigambling statutes when that activity was not in conflict with applicable Federal laws. At present, Bally supplies the majority of slot machines to those areas where they are legal.

Bally builds approximately 48 different types of slot machines for its domestic and foreign markets; it is also one of the major producers of pin-ball machines and arcade games.

The average percentage payout to slot machine players is 85 percent of the gross volume in a machine. The modern slot machine is designed to prevent an operator's altering this percentage. In order to reduce the percentage of the payout, the reels of the machine have to be completely redesigned and repositioned, which can only be done by the manufacturer. Highly accurate counters in the machines permit easy inspection by authorities to determine gross volume, payouts, taxable income, and return to the operators.

During the past year, the Nevada Gaming Commission and the Nevada Gaming Control Board investigated Bally and its subsidiaries to determine the propriety of a gaming license for the company. Since that time, Bally has been granted an unrestricted license as a publicly held company engaged in gaming in Nevada. This license permits the ownership of casinos, but Bally has not decided whether to buy any.

Bally has been active in the drive to establish the gaming industry and in the manufacture of gaming equipment. It has cooperated with Federal, State, and local governments, and has experienced no harassment from Federal agencies in the operation of its business.

The Federal Government should not force Federal gambling laws on the individual States, but rather should develop standardized laws and regulations, which the States could adopt and which would help to provide nationwide uniformity in gambling regulations and statutes.

Statement of Mr. Stern

Seeburg Industries, Inc., is a publicly held company with approximately 1,500 stockholders; in 1974, it grossed \$110 million. Since 1972, Seeburg has manufactured slot machines through its subsidiary, Williams Electronics. Slot machines accounted for \$28 million in sales in 1974.

Seeburg has a limited overseas market, and has not sought licensing in Nevada. It sells its equipment in Nevada only to a licensed distributor. Seeburg's sole interest in the legalization of gambling is to manufacture and supply slot machines for areas where they are legal.

Questioning by Commission members covered the following topics:*

1. Slot machine industry. The slot machine industry is a worldwide billion dollar operation. Besides Bally and Seeburg, companies exist in New Hampshire, Australia, England, Finland, and other countries in Europe. Slot machines are legal in 48 countries, primarily in the more developed European and Asian nations.

2. Federal and State laws. There should be a redefinition of what constitutes a gaming device. Under Federal law, any machine containing spinning wheels is classified as a gaming device, whether or not it has a payout mechanism. The lack of standardized State laws and Federal interpretations of antigambling laws are a problem to the industry. Serious Federal penalties can be imposed if an incorrect judgment is made concerning what the Federal view of a State law may be as it affects Federal laws. It would be helpful if the Federal Government would make its opinions known before the disposition of test cases. The legitimate gaming industry is subject to more scrutiny than are other public industries, but that is acceptable due to the nature of the products manufactured. The harassment that existed at one time has been replaced by cooperation between the manufacturers and the Federal agencies involved. The main problem is that no one knows what the laws are, or how they should be applied. The only time the industry breaks a law is when no one can tell the manufacturers what the law is.

*Mr. Tomlinson and Mr. Stern were joined in the questioning by William P. O'Donnell, President, Bally Manufacturing Co.; Dick Gillman, Vice President, Bally Manufacturing Co.; Ross Scherer, Director of Marketing, Bally Manufacturing Co.; Steven Kaufman, Sales Manager, Williams Electronics; and Francis Sweet, Counsel, Bally Manufacturing Co.

3. Lobbying efforts. There are no industry-related lobbying groups urging the legalization of gambling. Bally takes no position on the legalization of gambling. That is a subject that must be determined by legislators and their constituents. Bally did not lobby for casino gambling in New Jersey last year, but since the referendum was voted down, the company is reconsidering its policy. The object of legalizing slot machines is the tremendous return it would generate in taxes. None of Bally's equipment is known to be used in illegal gambling.

4. Prohibition of outdated machines. The outlawing of antiquated machines would be a boon to the industry, although outdated machines are not used where slot machines are legal. Eighty-five percent of the machines operated in legal areas contain features which prevent skimming and the altering of odds; the other 15 percent are marketed by foreign manufacturers. The old mechanical machines can be found in Maryland, Ohio, and other places where slot machines used to be legal.

5. Marketing. Bally and Seeburg do not employ representatives in States where slot machines are illegal. A sales representative will appear in those areas only when requested to do so by official State agencies.

STATEMENT OF:

• John G. Fary, U.S. Representative, 5th Congressional District,
Illinois
SEPTEMBER 24, 1975

The Bingo License and Tax Act of Illinois was passed in 1971, and in October of that year the first licensed game of bingo was played.

By July 31, 1975, 1,329 licenses had been purchased. During the period of October 1971 through June 1975, \$1,140,650 was collected in license fees, at \$200 per license per year. The money went to the general revenue fund of the State.

As of June 30, 1975, the 10 percent tax on the gross receipts of a bingo game had generated \$16,884,142. One-half of the money generated in taxes from bingo goes to the common school fund and one-half to mental health.

The bingo legislation was written to insure that people would not lose too much money: No other forms of gambling are allowed where bingo is being played, and the maximum price an organization can charge is \$1.00 for a regular card and 50¢ for a special card.

Bingo prizes were set at a maximum of \$2,250 a day, with \$500 the top prize at any one game. A licensed organization is allowed to operate one day a week with a maximum of 25 games per day. No one under 18 is permitted to play and no one under 18 is allowed into the playing area unless accompanied by an adult. There are no commercial ventures and no tax-supported organizations involved.

Although small ethnically oriented games of chance that are a form of entertainment should be legalized, open gambling--such as roulette, casinos, and off-track betting--should be prohibited.

A nationalized lottery is desirable, the profits of which could be distributed proportionately to the areas that sell the largest number of tickets. Also, a computerized system through which lottery winners could be more easily identified should be implemented.

(Note: Representative Fary's statement was read into the record by an aide.)

TESTIMONY OF:

- Lewis A. H. Caldwell, Representative, 24th Legislative District, Illinois General Assembly
- Harold Washington,* Representative, 26th Legislative District, Illinois General Assembly
- Margaret Eldredge, Project Coordinator of the Policy Numbers Game Study Committee, Illinois General Assembly

SEPTEMBER 24, 1975

The Policy Numbers Game Study Committee of the Illinois General Assembly was formed to study the policy game and the feasibility of its legalization. The committee climaxed a year's study with the release of a report and the introduction of H.B. 3123, a bill to legalize, regulate, and tax the policy game.

H.B. 3123 is unique in that it proposes to replace the illegal policy game with a legal one. Since policy is a large sales operation and can be compared to other operations such as mutual funds and brokerage houses, it can be licensed and regulated as a privately owned game for profit.

Policy is a game of chance, a private lottery in which people bet that the numbers they choose will be among those drawn in the games held twice a day, 6 days a week. Bets range from 5 cents on up. Winning numbers in policy are drawn from a keg of numbers numbered from 1 to 78. There are 28 active policy wheels in Chicago, 5 of them small, 18 large.

The Illinois State Lottery has not cut down on policy playing because they are not in competition. Net profit for a policy wheel per week is \$25,000. The policy committee estimated that \$23.3 million gross is bet on policy each year in Chicago. More than 38,000 people earn all or part of their incomes from the policy game in Chicago.

Raids on policy wheels account for half of all the gambling raids made in Chicago. Although blacks constitute only 32 percent of the city's population, they account for more than 80 percent of the gambling arrests. Most of these arrests are for policy.

The black community needs money. Twenty million dollars a year is being skimmed and taken out of the community. Policy could be operated to benefit the community. H.B. 3123 would enable the operators of the policy game to take a profit while assuring that the player has an honest chance of winning, and the State could collect its tax.

Topics covered during questioning by Commission members included the following:

*Rep. Washington was unable to attend. He was represented at the hearing by Mrs. Margaret Eldredge.

1. Licensing of operators. The government is spending millions of dollars attempting to develop business knowhow in minority communities. If policy were legalized, the existing illegal operators could be licensed if they met the established standards.

2. Opposition to the legal policy game. Investigation indicates that if there were any real opposition to legalizing policy, it would come from the higher echelons in the police department, because legalization would "cut off a lucrative source of income that is being skimmed off."

3. State control of policy. Policy is an ethnic game that exists in predominantly black communities. To try to have the State operate it would be to impose something on the general society that they may not want to be involved in.

TESTIMONY OF:

• Frank W. Oliver, Attorney at Law; Officer in Pegasus Company,
Chicago, Illinois
SEPTEMBER 24, 1975

Pegasus Company is a new Chicago corporation that supplies agents for people who want to buy parimutuel tickets at licensed racetracks and cannot go themselves. Pegasus charges a flat fee of 10 percent of the amount of the tickets to be purchased, but it is not in the business of accepting bets or wagers.

The Pegasus customer tells the clerk which tickets he wants to buy and the clerk then fills out an order form. The customer is given the form and is asked to examine it for correctness. When he is satisfied that it is correct, he indicates by initialing that he wishes an agent appointed for him and that the form corresponds to his order. Agents are located at the track and are supplied with money to make a purchase of the tickets ordered.

Pegasus has been requested to purchase an occupational tax stamp under the Internal Revenue Code. Pegasus' position is that it is not liable for the tax that the code calls for, or for the purchase of the stamp. However, the company has purchased the stamp.

Topics covered during questioning by Commission members included the following:

1. Public response. The public has responded very favorably to the Pegasus operation. It seems that most of the customers of Pegasus are people who have employed the services of bookies.

2. Control of Pegasus. Pegasus would welcome regulation by a responsible governmental body and would urge the licensing of operations such as itself. Pegasus further urges that this regulation be handled by some branch of government that has to do with revenue, due to the auditing and bookkeeping problems that arise.

TESTIMONY OF:

• Bernard Carey, State's Attorney, Cook County, Illinois
SEPTEMBER 24, 1975

The Criminal Code of Illinois contains three statutes dealing with gambling. Two of these laws, gambling and keeping a gambling place, provide maximum penalties of 1 year in jail and a \$1,000 fine for the first offense, and a maximum of 3 years in prison and a \$10,000 fine for subsequent convictions. These two laws prohibit the operation of games of chance and betting on sporting events, except those specifically authorized by the Illinois General Assembly.

The third Illinois law is entitled "Syndicated Gambling." This statute sets forth the legislature's recognition of the close relationship between professional gambling and organized crime, and prohibits policy games and bookmaking. A conviction under this statute carries a maximum penalty of 10 years in prison and a \$10,000 fine. Felony prosecutions under the syndicated gambling statute are carefully screened by members of the State's Attorney's Office.

Most defendants convicted of gambling misdemeanors are sentenced to various forms of probation and fines. It is obvious that judges do not regard gambling as a serious threat to society.

During the first 6 months of 1975, five persons were indicted on charges of syndicated gambling by Cook County grand juries, compared with two persons so indicted during the same period in 1974. The State's Attorney's Office is not aware of any syndicated gambling convictions that resulted in a sentence other than fines and/or various forms of probation.

In Illinois, law enforcement officers are in an awkward situation concerning enforcement of gambling laws. The three major exceptions to the gambling laws--the Illinois lottery and parimutuel racetrack betting, which have produced millions of dollars in State revenue, and bingo, which is used by many religious organizations in recreational and fundraising events--have raised questions in the public's mind as to the morality of selective legalization.

A recent public opinion poll taken on behalf of the Chicago Sun Times and WBBM-TV indicated that 50 percent of those interviewed in the six-county Chicago area favored legalization of various types of gambling now proscribed by law, while 36 percent opposed further legalization. The same poll taken one year earlier showed that only 32 percent of those interviewed favored expanded legalization and 50 percent opposed it.

Society as a whole might benefit through decriminalization of some forms of gambling under the strict supervision of State government. This might satisfy the basic desire of many to gamble, while funneling the profits of such enterprises back to the public through increased State

revenues rather than to organized crime and criminals. Gambling could become a source of State revenue, rather than a drain on limited law enforcement resources.

Topics covered during questioning by Commission members included the following:

1. Persons placing bets. In Illinois, a person placing a bet is as guilty as a person taking the bet.

2. Mandatory sentences. Mandatory sentencing can have a reverse effect on the judicial finding of guilt, in that judges resent these sentences, which negate judicial discretion, and thus are more apt to find the defendant not guilty.

TESTIMONY OF:

- Robert H. Allphin, Director, Illinois Department of Revenue
- George T. Rummel, Deputy Director, Illinois Department of Revenue

SEPTEMBER 24, 1975

Bingo is administered by the Illinois Department of Revenue under the State's Bingo License and Tax Act. The revenues that bingo produced for Illinois rose from \$4.65 million in 1973 to \$5.84 million in 1974. Since the State's revenues from bingo are equal to 10 percent of the game's gross proceeds, those figures mean that the people of Illinois spent more than \$58 million on the game last year.

In 1975, collection from the bingo tax totaled \$6.5 million, a 25 percent increase over fiscal year 1974. This past July, the first month of fiscal 1976, the State's receipts from the bingo tax amounted to \$1.77 million, an increase of almost 24 percent over the amount collected in the first month of fiscal 1975.

Bingo is popular in spite of a weakened economy because:

1. The game is diversionary;
2. The public believes in its ability to turn a profit, i.e., that a relatively small investment might yield a substantial return;
3. The proceeds it provides to the operator support worthwhile activities such as schools and charities.

Religious, veterans', and fraternal organizations account for 91 percent of the bingo license holders in Illinois. The remainder are educational and labor groups.

The State divides its bingo revenues evenly between mental health and common school funds.

The fears that preceded the enactment 4 years ago of Illinois' bingo law were unfounded. There has not been the slightest indication that professional gamblers, syndicates, or organized crime have infiltrated the game.

Illinois bingo licenses, which must be renewed annually, are available only to bona fide religious, charitable, labor, fraternal, educational, and veteran groups that operate without profit to their members. The law provides that the net proceeds "must be exclusively devoted to the lawful purposes of the organization permitted to conduct the game." Another provision of the law stipulates that an organization has to have been in existence for 5 years before applying for the bingo license.

No one can sell, lease, or distribute supplies or equipment to a bingo license holder without being licensed by the Department of Revenue to do so. Each bingo supplier is required to furnish the invoices of those sales.

Topics covered during questioning by Commission members included the following:

1. Bingo security. The Department of Revenue has audits that cover the accounting of receipts, verification of the accuracy of the quarterly returns that the law requires, and assuring that profits are not misused and that the games are conducted in accordance with the laws of the State. Un-announced spot checks are also made by the department.

2. Illinois State Lottery. The lottery is operated as a business by a division in the Department of Revenue. A business has to advertise in order to survive.

3. Bill to legalize policy. A bill has been introduced in the legislature to legalize the policy game; the bill would make the securities division of the Secretary of State's Office responsible for monitoring the game. The reason for this is purely political. The history of enforcement and control shows that the Department of Revenue is adequately equipped to handle such monitoring.

TESTIMONY OF:

• Ralph F. Batch, Superintendent, Illinois State Lottery
SEPTEMBER 24, 1975

The objectives of the Illinois State Lottery are: To generate revenue to defray the cost of demands made upon the State government; to provide entertainment; and to curtail the gambling activities of organized crime syndicates.

The success of the lottery is attributable to the design of the lottery program, to the structure of the operational organization, and to integrity and public confidence.

The Illinois State Lottery has curtailed and will continue to affect adversely the numbers racket in Illinois. It will not necessarily, however, eliminate the numbers racket or put the racketeers out of business. The impact of State lotteries on the organized syndicate cannot be measured unless the syndicate were to publish its own "Dow Jones" averages.

The lottery prize structure is competitive with the payoff of the numbers game. The lottery distributes 45 percent of its gross revenue in prize awards, a proportion identical to the 450-to-1 odds received by an individual winner of a winning racket number, after scheduled payment to winners, etc.

To understand a State lottery requires an appreciation of its three-dimensional nature: It is a game; it is a consumer product; and it is a public enterprise.

As a game, it must be exciting and trustworthy. Each player must perceive that he has as good a chance of winning as any other player.

As a consumer product, it requires widespread distribution, accessibility, and ease of purchase, therefore demanding security against counterfeiting, theft, alterations, and system manipulation.

As a public enterprise with public funds involved, it requires rigid cost accounting, meticulous ticket accounting, cash flow, and audit controls.

Illinois became the first lottery in the country to take advantage of congressional action that allowed lottery drawings to be broadcast live on television, to announce winning lottery numbers, and to carry lottery advertisements. This new Federal law has given the lottery maximum exposure and scrutiny by the public and, it is speculated, has also helped ticket sales.

The Illinois Lottery in its first 12 months of operation--July 30, 1974 through July 30, 1975, generated more than \$144 million and netted a

profit of more than \$64 million for the State. Lottery contributions to the general revenue fund represent 1.43 percent of the fund's income and provide the funding for numerous State services.

The results of statewide polls conducted by professional research organizations indicate an overwhelmingly positive reaction to the lottery which appears to have carried over into other forms of gambling.

Lottery opponents always argue from the misconception that poor residents of a State will buy lottery tickets when they should be buying much-needed food and clothing for their children. The Illinois experience shows this assumption to be a fallacy: Most lottery players could best be described as "Mr. and Mrs. Average American."

The Illinois State Lottery Superintendent is strongly opposed to: Any type of fragmentation of lotteries below the level of State operation; the legalization of any privately operated lottery; any State lottery actively soliciting the residents of any other State, whether it has a State-operated lottery or not. Section 4401 of the Internal Revenue Code of 1954 was recently revised to require a 2 percent tax on the gross sales of any State-operated lotteries. In addition, Section 4401 requires that a \$500 stamp be purchased by each seller. This law was meant to apply to illegal operations and not to the legitimate operations of a State-operated lottery. State-operated lotteries should be totally exempted from the provisions of this section.

Topics covered during questioning by Commission members included the following:

1. Federal taxes. The Internal Revenue Service has asserted that States should withhold Federal taxes from prizewinners. This provision discriminates against lotteries as opposed to other forms of gaming, and has an adverse marketing effect.

2. Pending bills. Several bills are pending in both houses of Congress. Congress should allow lotteries to legally reply by mail to people who write from outside the State asking for information. Congress should also grant enough latitude to allow the person who purchases a lottery or subscription ticket within the State to get his winnings by mail although they now reside outside the State.

3. Federal laws. Federal laws should be enacted to provide for the healthy and successful operation of State lotteries as well as to assure the integrity of lotteries, rather than performing as an opponent of the State's right to raise revenue to defray the many demands made upon it.

TESTIMONY OF:

• Rich Bysina, D'Arcy-McManus & Masius, Chicago, Illinois
SEPTEMBER 24, 1975

(Six television commercials, made in 1971, were viewed by the Commission. They were under a \$44,340 grant given to the Illinois Jaycees from the Illinois Law Enforcement Commission--ILEC Action Grant #2-04-25-0058-01--to produce and implement a public service mass media campaign against syndicate gambling in Illinois.)

Topics covered during questioning by Commission members included the following:

1. Commercials discontinued. The commercials were stopped for financial reasons and because of a policy change discontinuing mass media campaigns in this area of criminal law.
2. Public response. Public response to the commercials could not be judged. However, a questionnaire to evaluate the project was sent to all of the Jaycee chapters throughout the State. These responses were generally favorable.
3. Commercial contents. The Chicago Police Department provided background on the main types of gambling, so the commercials were fairly factual.

TESTIMONY OF:

● Edmund Dobbs, Representative, Cook County Sheriff's Police
Department

SEPTEMBER 24, 1975

Until the early 1970's, Cook County was reputed to have a great deal of open and illegal gambling. That is no longer the case today, however.

Since 1971, arrests for gambling offenses by the Vice Control Section of the Cook County Sheriff's Police have averaged 160 a year in an average of 39 raids. In 1974, officers also spent considerable time investigating gambling in connection with illegal dogfights, a second conviction for which is a felony in Illinois.

The police department alone spent more than \$160,000 on investigations and arrests connected with vice and gambling offenses. This effort resulted in only a 30 percent conviction rate during the period 1971 to 1974. Law enforcement agencies are wasting valuable manpower on the enforcement of gambling laws.

In most jurisdictions, all forms of gambling are illegal; yet legislatures apparently neither intend nor expect such statutes to be fully enforced. Consequently, the police are left with the responsibility of developing an enforcement policy for their particular communities. The difficulty is that employment of such criteria by individual officers may lead to disparity in practice; and even where practice is consistent, may involve basic policy questions which are not raised and thus not considered and resolved.

The argument that legalized gambling would invite the criminal element is not necessarily valid. By funneling money spent on enforcing gambling laws into the administration of legal gambling, a community could keep much of organized crime's influence out of gambling.

Gambling is a fact of life. There is no complainant on a gambling charge, except the State, which says gambling is legal in some instances and illegal in others. The question of whether gambling is immoral is irrelevant. The question now becomes how far does the State wish to go in giving its citizens a desired commodity.

The question now before the Cook County courts is whether a business of off-track betting is legal. If declared legal under current laws, the city or county should consider taxing such businesses as an additional source of revenue or go into the business of providing the service themselves.

If this form of betting is found to be illegal, the laws should be revised to legalize off-track betting as a source of revenue. Local governmental units should establish off-track betting parlors to add a source of

revenue and to discourage illegal bookmaking operations. The National Gambling Commission should concern itself with adjustments in Federal law in order to formulate a policy that might facilitate legalizing off-track betting.

Another idea for providing a desired commodity in a legal form might be the licensing of casino-type operations, similar to the way Illinois has licensed bingo. Legalization of this type of gambling should reduce the popularity of illegal numbers operations and force them out of business.

Limited forms of gambling should be legalized. The police officer should get out of the business of enforcing the unenforceable and into the business of helping society's victims of crime.

^D Topics covered during questioning by Commission members included the following:

1. Horse bookmaking. Horse bookmaking is the most prevalent type of gambling operation rated by the Cook County Sheriff's Police Department.

2. Sentences. Jail sentences would not necessarily deter people from violating the gambling laws. As long as there is an illegal commodity being sought, someone will supply that commodity, providing the profits are high enough.

TESTIMONY OF:

- Michael J. O'Donnell, Commander, Vice Control Division, Chicago Police Department
- Edward Berry, Commanding Officer, Gambling Section, Chicago Police Department

SEPTEMBER 24, 1975

Gambling and the enforcement of gambling statutes have been the problem children of law enforcement for many years. Some of the reasons that gambling has posed such a dilemma to law enforcement are: That the general public is normally not opposed to any forms of gambling, despite the fact that they have some awareness of organized crime's control of the illegal gambling enterprises; that enforcement by the police of the gambling statutes has had very little support from the courts in handing out appropriate penalties; and that because of the general indifference of the public, as well as the apparent indifference of the criminal justice system toward it, gambling provides a viable medium for potential corruption.

In the purest sense of the definition, gambling is not a victimless crime. It carries with it the potential of having several victims of the crime itself: the family of the gambler, the government, and the bettor himself.

The Chicago Police Department's policy toward gambling enforcement is that gambling enforcement is the responsibility of every police office in the department. Enforcement activity is directed toward ameliorating gambling activity to levels of low incidence and high risk.

The department staffs a gambling section in the vice control division. Between 1969 and 1974, district personnel conducted 11,253 raids, arresting 36,207 persons and obtaining 2,280 convictions. This averages to 1,875 raids per year, resulting in the arrest of 6,034 persons and the conviction of 380 annually.

During the same period, the vice control division conducted 6,186 raids, resulting in 12,976 arrests and 1,599 convictions in court. The VCD gambling section average for the 6-year period is 1,031 raids, 2,162 persons arrested, and 266 convictions. In 1974, due to an increase in gambling, the department had a 5-year high of 1,150 raids.

Despite the fact that gambling as it is now known may eventually be legalized, there will always be a need for law enforcement agencies to enforce gambling statutes. When the Commission considers its recommendations as to the approach toward the gambling problem nationally, consideration must also be given to the innovative illegal techniques that will manifest themselves in subverting these newly legitimized activities.

Topics covered during questioning by Commission members included the following:

1. Effects of legal gambling. Investigations indicate that because of the legalization of various forms of gambling in Illinois, illegal gambling has increased. Because of the increase of State-regulated gambling activities, the public becomes unable to discern between different types of activity; this impedes law enforcement's ability to have effective control of gambling. Further enactment of State-franchised or State-operated gambling should be discouraged.

2. Wiretapping. Although no official position has been taken by the Chicago Police Department, the department probably would support the use of wiretaps as a necessary tool in the enforcement of gambling laws.

TESTIMONY OF:

- Frank Carrington, Executive Director, Americans for Effective Law Enforcement

SEPTEMBER 24, 1975

If gambling were completely legalized, with no regulation at all, organized crime would take it over totally. In the future, therefore, gambling--particularly large-scale syndicated operations--will either remain a criminal violation, or will be carefully regulated by the government at certain levels.

Current legislative proposals, generically described as "financial privacy" legislation, would emasculate the enforcement of gambling laws or the regulation of gambling. Gambling, under this legislation, would be subject to the domination of organized crime as is gambling currently.

Typical of all "financial privacy" proposals is H.R. 214, which in essence would require that a court order be obtained by any Federal agent before he or she undertakes any form of surveillance activity on a private citizen. H.R. 1984 would apply the same rules to the States.

The requirement that a search warrant be issued before third party records may be obtained has two major areas of adverse impact on the effectiveness of law enforcement in the fields of gambling and organized crime:

1. Since under the fourth amendment to the U.S. Constitution a search warrant can only issue under probable cause, this provision would require law enforcement agencies to show probable cause before they could even initiate an investigation. In effect, police would have to have enough evidence to arrest a suspect or to make a search before they could utilize investigative techniques which up until now have been used to obtain such evidence.

2. Even in those rare cases in which probable cause to obtain a search warrant could be shown, the suspect must be given notice that he is under investigation. This is because in our legal system a search warrant must be served upon the individual against whom it is directed. Thus the major organized crime or syndicated gambling figure under investigation pursuant to the search warrant provision of H.R. 214 must be put on notice that he is the subject of an investigation, whether that investigation is purely criminal or under the enforcement of regulatory provisions.

It is not an overstatement to say that such legislation would in many cases completely insulate organized gambling operations from any regulatory or investigatory activity of law enforcement. It is apparent that in areas of enforcement as secretive as organized crime or syndicated gambling, any

requirement that the government put the subject on notice that he is under investigation would defeat the purpose of the investigation.

Topics covered during questioning by Commission members included the following:

1. Wiretapping statutes. If statutes such as those involving wiretapping by State and local authorities were carefully drafted, they would be extremely beneficial to law enforcement against organized crime.

2. Mandatory minimum sentences. Mandatory minimum sentencing of gambling defendants would depend on the degree of the offense and the involvement of organized criminal elements.

TESTIMONY OF:

• John Dineen, President, Fraternal Order of Police, Chicago, Illinois
SEPTEMBER 24, 1974

There is much illegal gambling in the city of Chicago and the State of Illinois. To offset the illegal game, off-track betting and sports betting should be legalized, because these are what people gamble on. Other forms of gambling--such as casinos and cards--are not so prevalent in Chicago and should not be encouraged simply to create revenue.

The legalization of off-track betting and sports betting would serve two purposes: raising revenue for government, and eliminating some of the control by organized crime of the gambling rackets.

If gambling is not legalized and if it is to be abolished, then wiretaps should be authorized at the local level. With proper court supervision, wiretapping on a local level would eliminate many of the middlemen of organized crime.

It has been said that every police vice officer in the city of Chicago is on the take. They are not. The Chicago Police Department is a hard-working department. There are a few corrupt officers among its 14,000: When they get caught it makes headlines, but when they do their job no one hears about it.

Topics covered during questioning by Commission members included the following:

1. Options in the gambling area. Of the two options in the gambling area, the legalization of gambling or the statutory authority to use wiretaps, the preferred option is to legalize wiretaps.

2. Control of gambling. If gambling operations were legalized they would be better controlled if operated by the State rather than if the State were to license outside operators.

3. Policy and bolita. If the lottery is legalized, the policy and bolita gambling operations also should be legalized because they are merely "ethnic lotteries."

4. Polygraph exams. The Fraternal Order of Police is against the police department rule that police officers who are accused of corruption in intra-agency administrative proceedings must take a polygraph exam. The organization proposes that a police officer must take the exam only if and when a complainant takes and passes it.

TESTIMONY OF

- William Brey, First Vice President, Illinois Association of Chiefs of Police

SEPTEMBER 24, 1975

Most of the police chiefs in the Illinois Association of Chiefs of Police are from departments that have fewer than 10 police officers. Suppressing gambling in any community with that number of men is almost impossible.

Outdated gambling statutes and ordinances ought to be revised. Also, agencies which are specifically investigating organized crime, such as the Illinois Bureau of Investigation, must be given broad support and cooperation by Federal agencies.

Prohibition of gambling parallels the prohibition of alcoholic beverages. People did not accept the latter and as a consequence it was repealed.

Nevada has had legalized gambling for many years. Illinois has legalized bingo and a State lottery. If there is to be civilian control of gambling, it should be in the form that Nevada has taken, with extremely heavy penalties for people who violate it.

Topics covered during questioning by Commission members included the following:

1. Increase in illegal gambling. Any statements to the effect that legalized gambling has increased illegal gambling are pure conjecture and cannot be statistically proven.
2. Control of gambling. Civilian boards should control such things as the lottery, bingo, etc., because the controls that presently exist are insufficient. As is done in Nevada, one board should control all gambling activities through stringent regulation.
3. Wiretapping and sentencing. Wiretapping should be allowed if there are strict controls, as required in the Federal statute. In addition, the courts should impose at least the minimum sentences allowed by law.

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TESTIMONY OF:

● Reubin O'D. Askew, Governor of Florida
NOVEMBER 24, 1975

An expansion of legalized gambling would destroy the economy of Florida. For the most part, experiments with legalized gambling in other States have led to disillusionment. The revenue produced has been much less than the revenue promised, and the side effects of expanded gambling have led to serious second thoughts by many of the people in those States.

There are those who maintain that legalization of casino gambling would help solve the economic problems in Florida. Some Floridians are anxious for the alleged easy revenue that is being offered by proponents of casino gambling and are supporting a petition drive to place the issue on the referendum ballot in November 1976. The gamblers and the well-financed campaign they will conduct might deceive many local communities into believing that casinos would solve all of their problems. However, according to Maximilian Wolkoff, one of Florida's few real experts on the subject of casino gambling, the plans to legalize gambling thus far proposed would absolutely destroy the State of Florida. The costs that Florida would pay in smaller paychecks and larger welfare rolls would far outweigh any short-term benefits that might be derived from legalized casino gambling.

Legalized casino gambling would destroy the tourist industry in the State and would not replace it as a source of revenue or as a source of jobs. The Florida Attractions Association recently voted to oppose the campaign for casinos, as did the Board of Directors of the Greater Miami Chamber of Commerce.

Florida had legalized slot machines for a few years in the 1930's, and what happened then is a matter of record. As a researcher for the National Gambling Commission wrote in its First Interim Report, "the mob soon offered any action the players wanted...numbers, slot machines, casinos...and operations were expanded to include the tourist trade in such popular resorts as Miami...It was not long before organized crime succeeded in establishing monopoly control over gambling."

Some forms of legalized gambling have been available in Florida for many years. Carefully regulated and controlled parimutuel wagering has long been a reliable source of revenue and a familiar source of entertainment in the State. However, parimutuels do not merely provide revenue for the State; they support a \$300 million industry that breeds, raises, trains, and trades greyhounds and horses. Casinos would not support these types of industries.

Florida has demonstrated that, within certain constraints, parimutuels can be regulated successfully and profitably and at a relatively

minimal cost in expenditures to the State. Other forms of gambling are not easily conducted within the constraints that are employed with parimutuels and are subject to manipulation. Casino gambling would be subject to manipulation and would drain profits and tax dollars from the parimutuel establishments.

Questioning by Commission members covered the following topics:

1. Legalization of casinos. The basic decision of whether casino gambling should be legalized or not should be made by the State. However, the possibility that the Federal Government might prohibit certain forms of gambling by Federal law should not be precluded.

2. Corruption. There has been no evidence of any substantial corruption in connection with Florida's parimutuel operations.

3. Lottery. Florida should not institute a State lottery because lotteries have not produced as much revenue as their supporters had predicted.

4. Bingo. Bingo is legal in Florida under certain conditions. However, bingo should not be legal because it is very susceptible to exploitation.

TESTIMONY OF:

• Richard A. Pallot, Chairman, Department of Business Regulation
NOVEMBER 24, 1975

All legalized gambling in Florida (with the exception of bingo, which is permitted under certain conditions) is regulated by the Department of Business Regulation through its Division of Parimutuel Wagering. The department is headed by a five-man board, somewhat different from the typical corporate board in that it acts in quasilegislatve, quasi-judicial, and quasiadministrative capacities.

Florida has no racing commission. However, the legislature has structured several advisory boards, committees, or councils, and the Board of Business Regulation itself has the authority to appoint advisory committees. This enables the Board and the division directors to call upon experienced people with expertise in various areas. Presently there are four committees in the parimutuel area alone: a Thoroughbred Advisory Committee, Thoroughbred Study Committee, Greyhound Study Committee, and a Horse Racing Trust Study Committee.

The system used in Florida is working well. In fiscal year 1975, approximately 16,200,000 people wagered approximately \$1,156,000,000, which produced, as a result of the tax on handle and attendance, more than \$80 million in direct State revenue. Florida has issued 36 parimutuel permits that are operated at 33 plants throughout the State. These operations created approximately 4,430 parimutuel performances in the last fiscal year, causing Florida to outdistance by a considerable amount every other State in this category.

Florida is the site of some 150 thoroughbred breeding farms with real estate valued in excess of \$100 million. Florida now ranks third in the United States in producing foals. The payroll at Florida's breeding farms exceeds \$7 million per year. The scope of the parimutuel industry in terms of total figures regarding attendance and handle has been growing annually.

In spite of the bright picture outlined above, the financial condition of Florida's parimutuel industry is not without problems. For example, Florida collects taxes on parimutuel handle under a number of different tax formulas. Despite changing conditions--some segments of the parimutuel industry have been prosperous while others have not--the tax structures or formulas have remained the same. Coupled with this is the fact that the State does not actually know how much profit each track or permittee makes in all instances from its parimutuel activity.

Although a certified balance sheet and profit-and-loss statement must be filed by each permit holder, many corporations or other entities that owned a track or fronton could, and many did, commingle nonparimutuel-related assets on their balance sheet. This impacted the

profit-and-loss statement and made it almost impossible to determine such things as profitability to the permit owner of the parimutuel operation.

The 1975 session of the Florida legislature required a uniform reporting system. With this system, Florida now has improved tools to substantiate that what is done concerning taxes in the parimutuel industry is fair and accurate. However, some changes are still warranted.

In the fall of 1974, the Hialeah Racing Association announced its intended sale of the Hialeah Race Track and the demise of the facility. Members of the State legislature, the Department of Business Regulation, the Department of Administration, and members of the industry then worked together toward the development and passage of several laws by the legislature this year. The legislation involved two areas: The adoption of a uniform reporting system regarding the permit holders' finances, and the passage of the Thoroughbred Industry Relief Bill, resulting from a recognition that the thoroughbred racing industry needed immediate assistance.

The following comments regarding the Florida racing industry are offered:

1. It is important to have and to support a regulatory system that can respond with timely solutions to problems as they arise. Problems differ from State to State, as well as between geographic areas within the State.

2. The "regulators," from the policymaking level down, need constantly to remind themselves that they are primarily hearing from the parties they regulate. The most important ward of the regulators--the public--seldom gets equal time. Regulators must remain sensitive to this if the system is to work.

3. Florida's Sunshine Law continues to be extremely helpful in increasing both the public's confidence in the ways its affairs are handled and the confidence of the participants in the regulated industries themselves.

Questioning by Commission members covered the following topics:

1. Awarding of racing dates. The Board of Business Regulation is the final administrative agency in the awarding of racing dates. Any aggrieved party has the right to appeal the decision to the courts. The controversial racing date periods traditionally have been appealed and decided by the courts in Florida.

2. Greyhound handle decline. This year for the first time there is a slight dip in the handle of Florida's greyhound tracks. The reasons

given for this decline are the recession and the dispute between track owners and greyhound owners, which is part of a national dispute.

TESTIMONY OF:

• Patrick J. McCann, Director, Division of Parimutuel Wagering
NOVEMBER 24, 1975

The Division of Parimutuel Wagering is the operating unit that supervises and regulates the parimutuel industry in Florida on a day-to-day basis. The Division is comprised of:

1. Field Operations--supervised by an assistant director assisted by a supervisor of horseracing, a supervisor of greyhound racing, and a supervisor of jai-alai frontons. Field Operations has the overall responsibility of insuring that the field staff assigned at the various plants are operating properly.
2. Administrative Services Unit--handles all personnel matters, purchasing, and revenue accounting.
3. Investigative Staff--works very closely with local and Federal law enforcement agencies in a mutual effort to maintain integrity in the parimutuel industry.
4. Licensing Unit--maintains all the licenses and fingerprints obtained by the staff, and handles the National Association of State Racing Information Systems, which Florida joined in 1974.

The Parimutuel Wagering Division also receives applications for racing dates annually, and provides necessary statistics to the Board of Business Regulation regarding these applications. The board is the only entity authorized to make such awards.

The typical plant has a chief inspector who is in charge of the State operations in the area. All actual licensing and fingerprinting is done in the field under his supervision. Florida statutes require that all persons connected in any way with the parimutuel operation, including concessions, must be licensed and fingerprinted.

Also at the plant is a chief auditor and assistant auditor who verify parimutuel payoffs, admissions, etc., and guarantee that the State receives all the revenue it is entitled to. In addition, Florida has a State steward at the horse tracks and a division judge at each greyhound track and fronton.

The horse and dog tracks each have a State veterinarian assigned to them who must be a Doctor of Veterinary Medicine. He is assisted by veterinary aides. Recently, the Parimutuel Wagering Division converted several of the veterinary aide positions at the South Florida thoroughbred tracks to career service positions at higher pay, since animal testing is one of the most important means by which to guarantee the integrity of racing.

The principal problem areas in policing the parimutuel industry in Florida at the present time are the use of illegal medication and the problems generated by certain forms of multiple wagering.

The manufacturers' development of sophisticated and hard-to-detect drugs has made it imperative for the racing laboratories to have equally sophisticated equipment for the detection of such drugs. The division recently requested and received a \$205,000 supplement to its budget to purchase such equipment.

Multiple wagering--or exotic betting, as it is so called--is very popular at Florida tracks. However, trifecta wagering provides a special temptation to the dishonest individual. The National Association of State Racing Commissioners appointed a committee to make recommendations for some uniform rules in this area. If this type of betting is to be continued, it should be under the strict rules and control of State regulatory bodies.

Other forms of gambling are currently being mentioned as needed to raise additional revenue for the State: among them are off-track betting, casino gambling, and lotteries.

During the past year, the Division of Parimutuel Wagering has permitted South Florida thoroughbred tracks to furnish its results to the New York City OTB; the receipts were divided equally between the horsemen and the tracks, with the State receiving no revenue. This is not detrimental to the State or the industry and is actually helpful to the association and participants. However, intrastate off-track betting could be a problem in Florida because of the number of parimutuel establishments that exist. Off-track betting would provide real competition for horse tracks, greyhound, and jai-alai frontons. This is also true of casino gambling, which, in addition, would bring undesirable elements into the State and county.

If other forms of gambling were introduced in Florida, they would dilute the steady and substantial income from the parimutuel industry. Florida does not want to jeopardize this source of revenue.

Questioning by Commission members covered the following topics:

1. Limit of parimutuel licenses. There is a geographical restriction on parimutuel licenses. No horse or dog track can be built within 100 miles of an existing parimutuel plant. Permits are renewed annually.
2. Distribution of parimutuel revenue. Originally, all of the money given to the General Revenue Fund was equally divided by the counties. However, the 1971 legislature put a \$29 million limit on

those funds: Anything above \$29 million reverts to the General Revenue Fund; anything below that amount goes to the counties equally.

3. Exotic racing limit. According to Florida's present policy, a minimum of eight horses must be programed in a trifecta race.

TESTIMONY OF:

- Frederick L. Van Lennep, President, Castleton Industries; and
Chairman, American Horse Council

NOVEMBER 24, 1975

For many years the only connection between Florida and the harness industry was that the State's warm winter climate provided an excellent off-season training ground for the owners of trotters and pacers. While this seasonal influx of horses, owners, trainers, and support personnel brought some additional income to the State, the full revenue potential of harness racing was not being realized.

Twelve years ago, in order to capitalize on this potential, Pompano Park was built in Pompano, Fla., providing a facility for harness racing during the winter months. The benefit of the track to the local and surrounding communities, and to the State as a whole, has been gratifying.

Although Pompano Park itself lost nearly \$12 million in its early years, harness racing in Southern Florida has become a significant segment of the State's economy.

For example, Pompano Park's most recent racing meet was attended by more than 619,000 persons who wagered a total of more than \$31 million. The State's 7 percent share of this handle amounted to approximately \$2.4 million. In addition to this direct payment, the harness industry offers numerous employment opportunities to residents, with accompanying revenue to the State.

The track also makes direct contributions in the forms of taxes, other than the takeout from parimutuel wagering. Admission and sales taxes totaled \$77,000 for last year. It is estimated that Pompano Park was directly responsible for the infusion of more than \$18 million into Florida in its first year alone. Subsequent years have yielded even greater stimulus to the State's economy.

The advantages of horseracing over other forms of wagering are great for the citizens and economy of Florida. A lottery, for example, is not regarded as a major source of jobs, nor will it attract tourists. Casino gambling, while it might attract tourists, would not necessarily add many more jobs. The racing industry, however, provides many services to local government, both in terms of tax money, employment, and other benefits offered to the local residents.

These benefits have been seriously endangered by the actions of some localities in the last few years. While the local jurisdiction, and not the Federal Government, should control racing, each State must be aware that the attitudes and policies that it adopts toward racing can seriously endanger the industry.

The increasing pressure on State governments to milk ever larger amounts of money from racing has resulted in an uneconomical proliferation of racetracks, and in taxing policies that discourage the bettor and the horsemen alike. The National Gambling Commission should caution against continuation of these policies so that more States can experience the advantages of a healthy racing industry.

Questioning by Commission members covered the following topics:

1. Intrastate OTB. The National Gambling Commission should consider suggesting to Congress that an intrastate off-track betting policy be adopted. The matter will not be terminated without Federal intervention because gambling has now become an easy method of raising revenue. Intrastate OTB could cause many of the Florida tracks to go out of business, because they could not exist against such competition.

2. Parimutuel takeout. The States' various formulas for the takeout from the parimutuel handle is an issue significant enough to require Federal legislation.

3. County fairs. Florida does not license parimutuels at county or State fairs.

TESTIMONY OF:

● Gene Campbell, Florida State Representative
NOVEMBER 24, 1975

(In an attempt to raise much-needed revenue for Florida, Representative Campbell has introduced a bill to legalize casino gambling. He is also trying to change the Florida constitution to allow a referendum by which the people of Florida can determine for themselves whether they want casino gambling as a means of raising revenue.)

If the casino referendum passes statewide, each county would then have the option to determine locally whether or not to allow casino gambling. A gaming commission could then be established at the State level to regulate casinos.

Witnesses before the National Gambling Commission have stated that the cost of regulating casino gambling would be formidable. However, the money needed to regulate casinos would be spent on security-related jobs. This money would eventually be spent back into the community as a source of community revenue.

It has also been argued that casino gambling has failed in the Islands (Puerto Rico, the Bahamas, etc.) and thus would fail in Florida. However, one reason for that failure may be that the people in the Islands are not providing the services that many tourists desire. If casino gambling were allowed, Florida would attract affluent tourists who would spend the revenue needed to solve the State's economic problems.

Questioning by Commission members covered the following topics:

1. Impact on youth. Casino gambling would have no more impact on youth than horseracing, dog tracks, or Hialeah.
2. Operation of casinos. Casino gambling should not be State-controlled, but they should be licensed by the State. Casinos should be under private ownership as is Florida's parimutuel industry.
3. Effect on Florida's electoral process. Legalized casino gambling would have no more of an effect on the electoral process in Florida than would horseracing, dogracing, and Hialeah. Although Florida does not have casinos, it has all of the types of gambling offered by casinos. If this gambling were legal it would be better controlled.



CONTINUED

5 OF 6

TESTIMONY OF:

• Paul Rico, Vice President, World of Jai-Alai, Inc.

NOVEMBER 24, 1975

Billed as the world's fastest sport, jai-alai means "merry festival" in the language of the Basque region where the game originated in the Middle Ages. Wherever it is played professionally, it is a popular amateur sport as well. A jai-alai fronton serves as a social center with full dining facilities, lounges, and fast food service.

The game is played on a huge three-sided court, and the pelota, which is a rock-hard ball, smacks against the granite-faced front wall, often at speeds in excess of 150 miles an hour, after being hurled from a cesta, a narrow, crescent-shaped wicker basket strapped to the player's wrist.

The American game is adapted to the parimutuel system. Eight one- or two-man teams compete for seven points. Two players or teams play for one point, the losing side retiring from the court, and the winning side continuing to play until it loses a point and is retired or wins enough points to win the game; playoffs determine second and third place positions.

Betting is the same as at horse races, each player being identified by a number that is called "post position."

Miami jai-alai is the oldest jai-alai fronton and the first operation of the world jai-alai, which began in May 1925. Florida has a virtual monopoly on the game of jai-alai betting. Jai-alai betting did not go beyond Florida until 1973, when a fronton opened in Las Vegas.

Parimutuel wagering on jai-alai, legalized in 1935, is betting by members of the public against each other. The fronton acts as a broker for wagers by the public, and deducts a commission fixed by State law and shared by the fronton and the State of Florida.

Last year in 105 operating days, Miami jai-alai generated \$47 million in mutuel handle and drew more than a million patrons. Both figures were world records.

A world record attendance of 14,441 bets was recorded on December 28, 1974, at Miami jai-alai; the world record handle of \$636,461 was achieved on April 29, 1975, at Miami jai-alai. Last year, world jai-alai in four frontons generated more than one-half million dollars for charity. This is said to be the highest amount generated for charity in one year by any parimutuel company.

In summary, jai-alai's rapid growth and popularity is based on a fascinating ancient sport that requires complex skills, but is easy to understand.

Questioning by Commission members covered the following topics:

1. Length of season. The jai-alai season runs 105 days plus 50 matinees. It is also run 4 days for charity at each fronton.

2. Average jai-alai bets. Jai-alai files indicate that the average per capita bet would be \$43 per person.

3. Illegal wagering. The amount of any illegal wagering on jai-alai would be minimal because the game itself is hard to predict and people bet on it because it adds to the enjoyment of watching a spectator sport. Jai-alai programs are not allowed to be sold outside the frontons, and there is no evidence of any active bookmakers handling action outside of the frontons.

4. Jai-alai and horseracing. Jai-alai is roughly competitive with horseracing: 17.4 percent is taken out of every dollar bet on any parimutuel operation in Florida. The same laws applicable to horseracing are applied to jai-alai.

5. Total handle. The total handle of horseracing in Florida is \$360 million; dogracing, \$635 million; and jai-alai, \$204 million. Jai-alai's handle is smaller than the racing handles, but its growth has been faster.

6. Casino gambling. Casino gambling would adversely effect every parimutuel operation in Florida.

7. Jai-alai players. Each fronton has a players' manager who closely follows the activities of the players. Players are subject to fines if they commit any breach of the ethical code set down by the manager. Players and their families cannot bet on the games, and there is no communication between the players and the outside audience.

TESTIMONY OF:

• Atlee Wampler, Attorney-in-Charge, Miami Regional Office,
Organized Crime and Racketeering Section, U.S. Department
of Justice

NOVEMBER 24, 1975

The legislative history of the various Federal antigambling laws indicates that gambling revenues constitute the biggest percentage of income for organized crime operations. These studies also indicate that the undeclared, untaxed income from illegal gambling operations is used to finance the loansharking industry, illegal narcotics importation and distribution, and corruption of officials.

Investigations and prosecutions by the Miami Regional Office have proven conclusively that illegal gambling income is used for the financing and operation of those other illegal industries and that they are feared far more than the illegal gambling operation that supports them.

The Miami Office has established that major narcotics importers and distributors in the southeastern United States directly financed their heroin, cocaine, and multiton marijuana importations by loanshark loans, the money for which came from illegal gambling operations.

Numerous investigations and several prosecutions are in progress in the Southeast: These prosecutions have established that law enforcement officers have been bribed to thwart the faithful execution of State gambling laws.

In addition, the Miami Office has investigated and prosecuted organized crime associates for crimes that have their genesis in legal and illegal gambling activities. These crimes include fraud schemes, scams, extortions, burglaries, prostitution, and murders.

One tool used by law enforcement to extricate organized criminals from society is Federal antigambling law. In considering total or limited decriminalization of gambling, the National Gambling Commission should consider the probable increase in crimes and the influx of criminals into criminal activities that are ancillary to gambling operations; the economic impact on established legal gambling industries; whether organized crime gambling revenues will be decreased by decriminalization; the impact on citizens with an affinity for gambling who would not be exposed to it unless gambling were readily accessible; and the probability of organized criminal control or partnership in legalized gambling activities.

The Miami Regional Office of the Department of Justice recommends a continuation of Federal antigambling legislation and law enforcement activities.

Questioning by Commission members covered the following topics:

1. Definition of organized crime. References to organized crime are here restricted to the segment of organized crime commonly known as La Cosa Nostra--that is, the major Mafia or Cosa Nostra criminal families.

2. Organized crime control. Between 30 percent and 40 percent of the identified major gambling operations are controlled by organized crime operations.

3. Bookmaking. Illegal bookmaking, largely sports bookmaking, in the southeastern United States encompasses about 60 percent of all gambling activities.

4. Illegal gambling in parimutuels. The Miami Office has had evidence of illegal betting being done within the legal parimutuel operations, where illegal gambling operations actually go on inside the tracks by individuals who extend credit to individual gamblers. Additionally, a number of investigations have indicated that there has been some "fixing" of horseracing operations in the past.

5. Competition by the State. It would be very difficult for a State to compete with an illegal sports gambling operation because of current problems involving taxation, extension of credit to gamblers, and the cost involved in running a government bureaucracy.

6. Law enforcement effect on organized crime. Past experience has shown that the best efforts of the Miami Strike Force created a change in the character or format of illegal gambling operations but did not put them out of existence. The operations continue to do as much business as they did in the past.

TESTIMONY OF:

- Julius L. Mattson, Special Agent in Charge, Miami Office, FBI
- Benjamin P. Hogan
- Eugene J. McKinney

NOVEMBER 24, 1975

The greater Miami-Fort Lauderdale area has thus far been classified by the organized criminal element as an "open city"; that is, it is not controlled by any specific syndicate or family group. However, this does not mean that organized crime is not involved in the gambling activities of the Miami area. On the contrary, the FBI office has learned from informants and from Title III intercepts that certain gambling rings are owned and backed by "the syndicate" or "the organization." In addition, during the past 2 years in the Miami area there has been a notable increase in the number of New Jersey bookmakers who have strong affiliation with the syndicate in the Newark area. If it were not for Federal and local law enforcement, Miami would be a bookmaker's paradise.

Illegal gambling in the Miami area includes sports bookmaking, bookmaking on horses, numbers operations (commonly referred to as "bolita"), and, on occasion, casino-type gambling and cock fights.

The FBI investigates the interstate transportation of lottery tickets and gambling devices. Many tickets from Puerto Rico's legal lottery have been found in the Miami area. The FBI investigates any wholesale transportation of these tickets into the area except through the mail; mailings are handled by the U.S. Postal Inspector's Office.

The FBI, acting on information from sources, has seized some of these shipments of lottery tickets; however, there has been only one prosecution and conviction.

In January 1969, FBI agents in Miami seized slot machines, roulette wheels, blackjack tables, and a complete layout for a casino operation being shipped to Port-au-Prince, Haiti. In addition, agents confiscated a large amount of sophisticated electronic equipment, which had been shipped with the gambling devices. The whole casino layout was "rigged."

Later investigation by the FBI determined that the owners of the casino were members of the syndicate.

The largest types of illegal gambling in the Miami area are the numbers, horse and sports bookmaking, with sports bookmaking producing the greatest activity.

The sports bookmaker must get a line on the odds or point spread prior to the game. Investigation has shown that the line is phoned in daily to Miami every morning from Las Vegas. Miami also receives a line

from New York. Recent investigations show also that a line originates in the Miami area and is disseminated to other States. Multiple Sports News Service disseminates the line to Miami-area bookmakers; the owner of this service has been convicted in Federal court for violation of Federal gambling statutes.

The telephone is one of the bookmaker's most essential tools, and law enforcement needs to have access to gambling conversations. In June 1969, Miami instituted one of the first wiretaps in the country based on the authority contained in Title III of the Omnibus Crime Control and Safe Streets Act of 1968.

Since that time the Miami FBI has utilized electronic surveillances under approximately 30 court orders. Since cases under Title III have gone to trial, or guilty pleas received, the FBI office in Miami has had approximately 90 gambling convictions. Some of those convicted have received prison sentences, but the majority have received fines and probation.

In some gambling investigations, immunity has been given to individuals who have testified against bookmakers and have, in addition, furnished intelligence information about the influence of the syndicate in gambling in the Miami area.

In view of the many successful efforts by the FBI in bookmaking cases, and the numerous wiretaps by local authorities, bookmakers have necessarily had to refine their operations to attempt to frustrate law enforcement. This in no way has lessened the efforts of the FBI and local law enforcement. It has compelled greater ingenuity and offers more of a challenge to investigators.

Legalized gambling does not lessen syndicated crime and its drain on the community, but rather encourages it by giving it an aura of respectability. Maintaining a constant pressure against illegal gambling will better serve our citizens, because the criminal element will be thwarted in its otherwise unrestrained preying on society.

Questioning by Commission members covered the following topics:

1. Jai-alai. The FBI has no information that would indicate that jai-alai is connected with organized crime operations in the Miami area.
2. Police corruption. The Miami office of the FBI has no information to show that gambling is involved in police corruption.
3. Bookmaking and narcotics. The Miami office of the FBI has knowledge of bookmakers who have been involved in narcotics. However,

the office does not know of any instances where bookmaking supports narcotics efforts or endeavors.

4. Sentences. Stiffer jail sentences would deter bookmakers.

TESTIMONY OF:

• Hank Messick, Author
NOVEMBER 24, 1975

While there is some variation in the arguments for and against legal gambling, the progambling arguments are quite limited. They encompass only three major points:

1. Legalized gambling will increase tourism.
2. It will bring a great deal of revenue to the city and State.
3. It will compete with organized crime and thus decrease crime.

Legalized gambling will not increase tourism, as shown by the experience of Miami Beach. When the wide-open illegal casinos in the Miami area were closed in 1949 and 1950, the propaganda began immediately: Without casinos, the area will die.

The first drive to legalize gambling was begun by the syndicate gangsters who had operated the old casinos. The drive failed, and in the next decade Miami and Miami Beach grew as never before--without casino gambling.

Tourists do not come to an area to gamble; they come to enjoy a family vacation. Gambling destroys; it does not build.

The argument that legalized gambling will bring much revenue to the State is a persuasive one. However, the revenues that gambling proponents estimated have never been realized.

The New York State Lottery, when it was first promoted, was expected to bring in \$400 million a year for education. It has averaged one-tenth that amount--\$40 million a year. And recently the New York Daily News reported that lottery officials were announcing winning tickets that had never been sold. Other tickets had been issued in duplicate and even triplicate, the story said.

In determining the revenue to be obtained from gambling, one must allocate a sufficient amount of money to the operation to keep criminals out. Gambling in any form represents quick money, and quick money attracts criminals.

That legalized gambling will compete with illegal gambling and thus decrease crime is not true. Certainly a few people in Las Vegas might be hurt if casinos opened in Miami Beach--some politicians might not get as much graft--but the real organized crime bosses would not suffer. Casinos in Florida would merely create new gamblers, ready to be taken.

Gambling is a virus that feeds on itself and grows. The more gambling, the more gamblers. And as the gambling business grows, the underworld will grow with it. People will still bet with illegal bookies for reasons having to do with odds, credit, and taxation.

With a legal base from which to operate, the crime syndicate will take over the country. A State that cannot keep organized crime out of charity bingo games can hardly operate multimillion dollar casinos on an honest basis. It is impossible to separate organized crime and organized gambling.

Five years ago there was a drive to legalize gambling in Miami Beach. One argument seriously presented was that things were already so corrupt that legal gambling could not make it much worse.

Corruption is and has been a way of life in this area, and the reason, in part at least, is the existence of legal and illegal gambling. Corruption on a grand scale has been necessary to permit the wholesale illegal gambling that exists here, and the local government has been infected. Legalize gambling, and the opportunities for corruption will increase.

The Third Interim Report of the Kefauver Committee in 1951 reached the heart of the gambling issue. It stated: "It is the nature of the business of gambling, and not its legality or illegality, that makes it so attractive and lucrative for gangsters and hoodlums."

Today, despite the best efforts of organized crime and its allies, gambling still is not the only game in town, but, if the National Gambling Commission makes it legal, it soon will be.

Questioning by Commission members covered the following topics:

1. Lottery advertisements. It is appalling that lottery tickets are advertised on the media. The media promote and advertise gambling just as they try to sell the public many other things it does not need.
2. Positive effects of gambling. Illegal gambling has been one profession used by the disenfranchised or underprivileged to get ahead but at a cost to their fellow man. Meyer Lansky is an example.
3. Numbers. If ghettos were eliminated, there would be no numbers racket in this country, because the ghetto is the source of all numbers money.

4. Law enforcement efforts. Organized crime would not be the problem it is today if law enforcement had been doing its job over the years.

TESTIMONY OF:

• Barry Halpern, Attorney; and President, Florida Gaming, Inc.
NOVEMBER 24, 1975

The sole aim of Florida Gaming, Inc., is to own and operate a casino in Dade County, Fla. The owning and operation of such a casino is just another business and should be treated as such.

Florida Gaming, Inc., has initiated litigation in Federal court for the following reasons:

1. It is necessary to establish a basic right to own and operate a legal business. It is the corporation's belief that under the existing laws of Florida, a license could be issued and a casino could be run on a legal basis.

2. The State of Florida can not arbitrarily discriminate against one form of gambling, while allowing others.

3. The denial of equal protection of the law must be settled by the courts, not the legislature.

The question of legalized casino gambling in South Florida is controversial. South Florida is one of the most economically depressed areas in the country, certainly the most depressed in the State. Businesses are closing every day in this area. Very little, if anything, has been done to help the State financially. Florida must take steps to insure that funds are available to do things its citizens desperately need.

The Florida constitution is unique in that it does not prohibit gambling per se. The constitution prohibits lotteries. The Federal lawsuit by Florida Gaming, Inc., challenges the validity and constitutionality of Florida Statute Number 849, which prohibits casino gambling, except parimutuels.

Casino gambling could generate tremendous revenues for the State. The monies taken into the casino would be divided between the State and the casino. As the casino draws tourists into the area, hotels will profit. The food, linen, transportation, and entertainment industries start to generate more and more work; as one business grows, others follow. The end result is a self-supporting community--one that has traditionally looked for tourism for its main source of revenue.

In order to have a successful casino gambling operation, the following are necessary:

1. Efficient organization.
2. Strong management.
3. Professional employees.
4. Experienced consultants.
5. Proper regulations with proper police enforcement.
6. Excellent tourist facilities and services.

Questioning by Commission members covered the following topics:

1. Organized crime. Organized crime will not increase its activities in connection with Florida Gaming, Inc.'s casino gambling operation. The corporation has had no experience with organized crime in the past.

2. Financing. Florida Gaming, Inc., would use local sources to finance the casino.

3. State regulation. Florida Gaming, Inc., is asking the State to regulate the corporation to any degree it feels is necessary.

4. Economy of South Florida. The depressed economy of South Florida resulted when tourists decided that the sun was just not enough; hotels there offer nothing except high prices.

TESTIMONY OF:

- Paul School, Mayor, North Bay Village, Florida; and Chairman,
Dade County Floridians for State-Controlled Casinos

NOVEMBER 24, 1975

Florida has the finest year-round climate in the world. It has 850 miles of shoreline and admirable beaches. It offers fishing and other recreational activities. Florida has all the requisites, including Disney World, to foster tourism, and yet in its single biggest year for tourism, only 25 million tourists entered the State.

In contrast, Nevada has created the finest mecca for international tourism in the world. Last year, 70,000 tourists entered Nevada each day. Besides Hoover Dam and other minor attractions, Nevada's major drawing card is State-regulated casino gambling.

Opponents of legalized casino gambling claim that casinos will increase crime and corruption. However, Clark County, in which Las Vegas is situated, had less crime last year than the city of Miami.

Parimutuel gambling has existed in Florida for about 44 years. No scandal has ever been attributed to parimutuels because of the diligence of the regulating agency, the Board of the Bureau of Business Regulation. A similar board could easily take care of State-regulated casinos.

The taxes generated in this State last year fell so short of expectations that the educational system suffered. Florida needs casino gambling. Casino gambling is not the ultimate panacea, but it is the single most important move that Florida could make to generate industry, which is tourism.

Questioning by Commission members covered the following topics:

1. Casino regulation. If Florida casinos did not have strict regulatory procedures--at least as strict as the parimutuels--there is a strong possibility that criminal elements would invade this new territory.

2. Around-the-clock gambling. Casinos in Florida would not be open 24 hours as they are in Las Vegas, but rather between 8 p.m. and 2 a.m.

TESTIMONY OF:

• David Rosen, Attorney, Miami

NOVEMBER 25, 1975

Several Federal prosecutions have demonstrated abuses in the way Federal gambling laws are enforced. The Department of Justice has often distorted the gambling statutes and forced the law to fit certain facts.

In Title 18, Section 1955 of the U.S. Code, Congress has determined that a gambling business involving five or more persons and doing a certain amount of gross business presumptively has an impact on interstate commerce. Accordingly, Congress eliminated the necessity of proof of a link between such a gambling business and commerce for Federal jurisdiction. Acting on the theory that a bookmaker, in order to operate successfully, must be able to lay off bets, the government has indicted, and often convicted, the personnel of two separate and distinct book-making operations that have had no real business connections with one another. This constitutes a misuse of 18 U.S.C. 1955.

There is an unevenness as well in the ultimate disposition of convicted gambling offenders by the judiciary. Gambling offenders have received sentences ranging from fines of \$1,000 to 10 years in prison. The disparity is the result of the attitude of the sentencing judge.

In one gambling case, the judge decided to place the bookmaker on probation for 3 years. It was explained to the judge that the bookmaker, who was 65 years old, had spent his entire adult life as a bookmaker and knew of no other means of gainful employment. Although he could successfully engage in bookmaking and not violate the Federal laws, he would be violating the State laws and therefore breaching conditions of his probation. Appreciating these circumstances, the judge eliminated the probation and fined the bookmaker \$1,000.

Although the cost of deterring crime should not be a factor in investigation and punishment, the dollar amount expended by the government in gambling cases is excessive when compared with the results of the prosecution and with the deterrent effect.

If a bookmaker is taken out of circulation by reason of incarceration, the customer will either find a new bookmaker or will himself become a bookmaker. It would be presumptuous to suggest that legalizing gambling would be a panacea. However, the antigambling laws, the method of enforcement, and the attendant corruption make a mockery of justice.

Questioning by Commission members covered the following topics:

1. Prosecution of bettors. The betting world makes gambling profitable. It is the bettors that make bookmakers; bookmakers do not make bettors. However, prosecution of bettors would be socially unacceptable and unfair.

2. Gambling laws. The gambling laws, considering the nature of people, are unenforceable. All antigambling laws should be abolished.

3. Minimum mandatory sentences. The legislature should not impose any minimum mandatory sentences because it would offend the judiciary.

4. Decrease in gambling prosecutions. There has been a considerable decrease in prosecution of gambling cases by the Federal Government in the past year or two, perhaps because most gambling or bookmaking case involve wiretaps, and the cost of wiretap installation, monitoring, etc., is astounding.

5. Organized crime. None of the approximately 40 individuals charged with bookmaking activities represented by the witness were in any way connected with organized crime.

JOINT TESTIMONY OF:

- Jack Key, Special Agent, Florida Department of Criminal Law Enforcement; and
- Richard Scully, Special Agent, Florida Department of Criminal Law Enforcement

NOVEMBER 25, 1975

The Florida Department of Criminal Law Enforcement has formulated one definition that is used as a guideline in defining organized crime as it pertains to Florida:

Organized crime is a society that seeks to operate outside the control of the American people and their governments. It involves thousands of criminals working within structures as complex as those of any large corporation...Its actions are...the result of intricate, self-perpetuating, criminal conspiracies...aimed at gaining control over whole fields of activity in order to amass enormous profits by any means...

Organized crime participates in any illegal activity that offers maximum profits at a minimum risk of law enforcement interference. These activities would include but not be limited to: gambling (both legal and illegal); narcotics;...loansharking;...labor racketeering and infiltration of legitimate businesses for legitimate or illegitimate purposes...

It imposes rigid discipline on underlings who actually perpetuate the crimes while the leaders...are generally insulated from the criminal act and the consequent danger of prosecution.

Congressional hearings have identified La Cosa Nostra and what that element comprises across the country. Florida is experiencing the influence of the major La Cosa Nostra families, as well as numerous other influences of the "Mob." Of the approximately 27 publicly identified La Cosa Nostra or Mafia families, 15 are represented in Florida. Also, there has been a tremendous influx of organized crime figures into Florida from New Jersey and Canada.

The principal activities of organized crime in Florida are gambling, loansharking, legitimate business, real estate, labor racketeering, pornography, stolen property, and stocks and securities.

Bookmaking is one of the largest problems experienced in Florida. However, statistics for arrests show fewer arrests in Florida for bookmaking than for lottery violations, and fewer arrests for lottery violations than for all other forms of gambling.

There is illegal on-track betting at Florida's parimutuels. A close-knit group participates in this form of illegal gambling, and consequently it is hard to infiltrate. Florida has also had problems trying to control bingo. The Department of Criminal Law Enforcement has had documented cases in which organized crime figures actually operated the game.

The Florida wiretap statute has not been broadly implemented by that department. Wiretap authority is exercised judiciously in the major criminal investigations for which it was intended. Use of the wiretap intercept law is very expensive.

The Department of Criminal Law Enforcement has taken no position regarding the legislation of various forms of gambling. However, the department feels that law enforcement should have a voice in the gambling decision. If confronted with additional forms of gambling, law enforcement will need greater controls and tools to enforce gambling laws and to combat the attendant ills of gambling.

In the course of questioning by Commission members the following topics were covered:

1. Lottery. Possession of a lottery ticket is a violation of the Florida statutes and is a misdemeanor offense.
2. Bookmaking. Investigations have established that organized crime is involved in bookmaking to a great degree. However, no single organized crime family controls the bookmaking operations.
3. Judiciary. The courts and juries generally take a lenient attitude toward gambling violations, possibly because these violations seem so minor compared to the crimes of violence they also face.
4. Public awareness. The Organized Crime Council plans to initiate a public awareness program on the ill effects of gambling. However, it is almost impossible to convince the 50-cent or the 10-dollar bettor that his bet buys heroin from Southeast Asia.
5. Organized crime. Law enforcement is not winning the war against organized crime.
6. Enforcement alternatives. Enforcement alternatives such as civil remedies--that is, civil injunctions to enjoin gamblers from gambling--would be an excellent posture for a State to take.

TESTIMONY OF:

• Jay Hogan, Attorney, Miami
NOVEMBER 25, 1975

The greatest blow to illegal gambling in the United States is not the gambling laws which Congress enacted, but the enactment of the wire-tap statute (Title III of the Omnibus Crime Control and Safe Streets Act of 1968).

It is impossible for a bookmaker to operate on a large scale--or even a medium scale--without the use of a telephone. Bookmakers fear that the government is listening in on all of their calls, not only to check gambling violations, but for tax violations based on the new 2 percent excise tax on gross wagers.

The wiretap law has caused the large-scale professional gamblers to move to Las Vegas. The bookmakers that are left in various districts generally will not accept or make long-distance telephone calls for fear of violating Sections 1084 and 1952. However, they will make or receive one call in the morning from a pay phone to get the line for the day's events.

The government is now attempting to prosecute gambling operators under 18 U.S.C. 1955, which requires that five or more persons be involved in conducting the illegal gambling business. Generally, this is where the abuse in the prosecution of gambling laws occurs, because the government will use a number of methods to insure that five people are involved.

The prosecution of gambling cases has become more selective recently, with only the large-scale gambling operations targeted. Again, however, it is not the gambling laws per se that are responsible for successful prosecutions; it is Title III, which allows the government to tap a bookmaker's phones for 30 days or more.

In many districts, the media and prosecutors strongly believe that gambling is controlled by the Mafia or by a single mob or syndicate. This is not true. The sports bookmaker's only connection with any syndicate or mob is his need to borrow money from a loanshark at usurious interest. When this occurs, the lender, in an attempt to protect his investment, will sometimes involve himself in the operation of the gambling business; but generally, when the loan is repaid, he no longer is interested in conducting the gambling business.

If the Federal and State governments are genuinely interested in eliminating wagering on sports, they should have a mandatory minimum sentence of 90 days for any person convicted of betting on a sporting event. Bettors have been treated like the customers of prostitutes and not

prosecuted, or if prosecuted, allowed to pay a small fine. Therefore, no one is afraid to make a bet, and as long as there are people willing to bet, there will be bookmakers willing to take the risk of being incarcerated for accepting wagers.

All gambling should be made legal. Gambling licenses could be sold for \$25,000 a year and people could run their own businesses, paying regular income taxes but no taxes on the gross wagers.

Questioning by Commission members covered the following topics:

1. Title III. Title III is unconstitutional. In 15 to 20 years, the public will realize it has allowed the government to invade its privacy, and Title III will be ruled unconstitutional.

2. Wiretap supervision. Supervision of the operation of wiretaps on the Federal level is very good. However, there is no supervision at all on the State level.

3. Legalized gambling. Legalization of gambling would save the millions of dollars now spent on investigation and prosecution of gambling cases.

4. Off-track betting. Bookmakers are using the New York off-track betting operation for lay-off purposes.

5. Minimum mandatory sentences. Although minimum mandatory sentences for the bettor are not desirable, it is necessary to go after the bettor rather than the bookmaker in order to stop betting on sporting events.

6. Sentencing discrepancies. Discrepancies in sentencing depend on the actions of the bookmakers: If they plead guilty, they often get minimum fines; if they go to trial, they often go to the penitentiary.

TESTIMONY OF:

• Sanford Berg, Professor of Economics, University of Florida
NOVEMBER 25, 1975

Legal gambling is a heavily regulated industry. Economic knowledge of how regulation has operated in other industries must be applied to gambling, both to aid in improving public policy in this area and in considering additional Federal action.

Five aspects of the State regulatory environment must be examined: price regulation, heavy taxation, restricted entry, multiple levels of authority, and the absence of direct consumer considerations. Besides these elements of the regulatory environment, current regulatory procedures must be considered. These procedures tend to focus on detecting illegal activity, which is important, but additional resources should be devoted to economic analysis, especially in the returns to the firms versus the returns to the State.

The present regulative structure of the Florida parimutuel industry has failed to achieve reasonable economic goals of regulation. Specifically, economic rents generated by State-created exclusive territorial franchises accrue to private individuals rather than the State.

Most parimutuel States created exclusive territorial areas after the initial enabling legislation, which occurred in the 1920's and 1930's. These restrictions take the form of a maximum number of licenses in a region or a minimum distance between licenses. They are granted to prevent destructive competition. However, as market conditions have changed over the years, the territorial restrictions have not. This has resulted in an inefficient location and/or number of franchises in Florida. Thus, protective legislation becomes restrictive on both State revenues and the firms' profits.

When entry into legalized wagering opportunities is limited by geographical criteria, additional monopoly rents are implicitly granted to the licensee. Therefore, it is imperative to use some aggregate way of measuring the profitability, to analyze the various product lines and all the various opportunities for cost subsidies in order to regulate this industry on an efficient basis.

The parimutuel tax is a mechanism to transfer to the public treasury the monopoly profits generated by State-created monopolies. The failure to adjust the parimutuel tax rate in response to changing conditions in the industry results in undertaxation or overtaxation.

The usual case, undertaxation, results in monopoly profit accruing to private individuals who happen to own the franchises, whereas overtaxation would result in some private subsidy to the private treasury.

Most firms operating in the parimutuel industry are relatively small and tightly held, and the problem of concealment of profits by distortion is much greater than with a larger, widely held public utility. The potential exists for some vertical and conglomerate integration which would provide a mechanism for the effective overstatement of the costs or the funneling of revenues to the nonregulated parts of the firm.

One potential problem in vertical integration is the facilities transfer the government-created rents to unregulated parts in the supply market. It is permissible in some States to hold an equity position in a track and run horses at the same track. Vertical integration raises issues about horse ownership. Since 45 percent of the Florida thoroughbred costs are in purses, it is a proper concern of State policy whether one individual should hold equity positions in both the track and the horses.

Significant disparity exists within and among the three major categories of Florida parimutuel operations: dogs, jai-alai, and horses. The Florida regulatory agencies have failed to correct the trend toward diverging profitability levels, although various study commissions have identified the problem. The failure of regulation is partly a function of organization and staff adequacies, and, until recently, a nonuniform accounting and reporting system.

To improve the effectiveness of the parimutuel regulatory structure, several staff and policy changes must be made, particularly with regard to the profitability standard of the industry. The newly instituted uniform accounting and management reporting system for Florida represents a good start. Also, the multimillion-dollar State budget in Florida that goes to regulating parimutuel betting might be better reallocated to devote more resources to maximizing the State revenue, rather than trying to detect all of the illegal activities at tracks.

The following observations have some immediate implications for regulatory policy:

1. Extensive studies are needed on the response in the handle, the total wager, the quality of the performance, and the role of the purse prices and bonuses in obtaining quality performance.
2. Prudent State policy would closely monitor vertical integration in the industry.
3. Earmarking funds for purses is a questionable practice since such restrictions limit the possibility of adjusting purses downward to reflect changing economic conditions.
4. Consideration should be given to national coordination so States could capture a larger share of the State-created rents if they did not compete with one another for the so-called quality horses.

Questioning by Commission members covered the following topics:

1. Recommendations. One recommendation by the National Gambling Commission should be much more careful economic analyses of the pari-mutuel industry.

2. Federal policy. If a State policy to limit gambling and wagering opportunities exists, then some Federal policy that aids the State in capturing the rents they create would be quite reasonable.

TESTIMONY OF:

- Dan Sullivan, Executive Vice President, Crime Commission of Greater Miami

NOVEMBER 25, 1975

The Crime Commission of Greater Miami was founded in 1948 to fight gangsterism and the infiltration of racketeers into Dade County, Fla.

Since its inception, the Crime Commission has opposed the extension of legalized gambling, particularly the legalization of gambling casinos.

Since the shutdown of gambling casinos in Dade County more than 25 years ago, the economy has thrived. It has become a 12-month-a-year business economy, and tourism has quadrupled since the casino shutdown.

Legalization of casinos would result in gangsters and the leaders of organized crime taking control of gambling, as has happened in practically every place where casinos have been legalized, including Nevada.

The Crime Commission is opposed to the legalization of lotteries, because lotteries appeal to people in the lowest economic bracket. Off-track betting is a delusion: It only creates a new population of losers.

At a time when some communities are facing financial bankruptcy, it is inappropriate to embrace highly dangerous gambling extensions that could contribute to the moral bankruptcy of our communities. The Crime Commission urges the National Gambling Commission not to consider Federal legislation that might result in the extension of legalized gambling.

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*Accompanied the witness.

TESTIMONY OF:

- Ralph J. Perk, Mayor, Cleveland, Ohio
- Gerald J. Rademaker, Assistant Safety Director, Cleveland, Ohio

January 16, 1976

At present, the Cleveland Police Department has 51 officers assigned to enforce vice laws. The salaries and fringe benefits for this manpower amount to almost \$1 million a year. The problem of illegal gambling and related matters is not inexpensive, and is not treated lightly in Cleveland.

Questioning by Commission members covered the following topics:

1. Gambling-related corruption. Although there were several convictions of police officers involving vice violations in the 1930's, no such incidents have occurred in Cleveland since 1948.
2. Gambling in Cleveland. The number of bookies has declined substantially. When the wire services were terminated bookies could no longer provide the immediate information horse players need to make their bets. These bookies have taken on football, baseball, and basketball pools, which are very popular in Cleveland. Games such as poker and craps are popular, but there are very few high stakes games in the area.
3. Organized crime. The Cleveland Police Intelligence Unit has determined that there is no organized-crime-operated gambling in the city. The Cleveland criminal syndicate conducted bootlegging and gambling operations in the 1920's and 1930's, but moved out to Las Vegas in 1947 to initiate the Desert Inn. The vacuum created in the city was filled by independent organizations which currently operate several clearinghouse (numbers) and policy operations.

TESTIMONY OF:

• Thomas L. Boardman, Editor, The Cleveland Press
JANUARY 16, 1976

It is extremely difficult to define the public's attitude toward gambling. Most people gamble, but they do so mainly for fun and in trivial amounts. Widespread gambling of that type poses little threat to public safety or personal welfare and is not a matter on which there needs to be public policy. But the widespread acceptance of gambling by society does create a need for public policy. Low-stakes parlor games can lead easily to high-stakes casino gambling or illegal off-track betting in amounts large enough to attract racketeers.

The current policy at the State level appears to be based in part on the hope that by legalizing and regulating some forms of gambling, government can create enough competition to drive the criminals out. Government legalization and regulation of lotteries, parimutuel wagering, bingo, etc., can create a relatively harmless diversion, but legalized gambling cannot compete with the illegal market, and it cannot eliminate criminal control of large gambling operations. Government participation in gambling does no particular harm but neither does it diminish illegal gambling.

Public policy today must be what it always has been--to prosecute the criminals who use their gambling revenue to finance other forms of crime. Vigilant law enforcement is needed to control operators of illegal games. Government sponsorship of gambling can be harmful if it deludes the public into believing that the problem of criminal control of illegal gambling has been diminished.

Questioning by Commission members covered the following topics:

1. Bingo. Current bingo legislation does not specify what portion of the gross must be paid to the charity conducting the game, what portion the operator is entitled to, or how much must be paid out in prizes.
2. Sports pools. Anyone in Cleveland who wishes to bet in a sports pool can find one. But most pool betting operations are small.
3. Gambling as a diversion. As long as gambling is offered merely as an inexpensive diversion--which is the case with respect to the State lottery--there is little harm in its being operated by the government.

TESTIMONY OF:

- Jack C. Hunter, Mayor, Youngstown, Ohio
- Donald G. Baker, Youngstown Chief of Police
- Robert T. Halbert, Detective, Youngstown Police Department

JANUARY 16, 1976

About 80 percent of the adults in Youngstown gamble to some extent--on friendly card games, church bingo, the State lottery, or office pools. Only a small percentage of those who gamble do so through members of organized criminal groups. People who operate illegal gambling in the Youngstown area also are involved in prostitution, narcotics, fencing of stolen goods, burglary, and murder. Some of the money earned through these operations is invested in legitimate businesses and some is even contributed to charitable organizations or to political candidates.

Existing law enforcement, judicial, and corrections practices against illegal gambling are ineffective. Police in Youngstown enforce antigambling laws, but many cases get bogged down in court, and many of those convicted receive only modest fines. The police could be much more effective in suppressing illegal gambling if their efforts were supported by more enthusiastic prosecution and heavier sentences for those convicted.

The best way to combat illegal gambling would be to enact stringent antigambling laws that carry mandatory jail sentences. This is a better approach than having the State create a gambling monopoly in order to drive organized crime out of the business.

Questioning by Commission members covered the following topics:

1. Numbers. The numbers racket is a big business in Youngstown. A dice game called barbouthe also is popular in the area.
2. Corruption. Corruption exists at all levels in Youngstown--among police, prosecutors, judges--but is very difficult to prove. Organized crime spends a great deal of money to corrupt officials.
3. Sports betting. Although numbers is the most popular type of illegal gambling in Youngstown, more money is spent on sports betting.

JOINT TESTIMONY OF:

- Frederick M. Coleman, U.S. Attorney, Northern District of Ohio
U. S. Department of Justice; and
- Douglas P. Roller, Attorney in Charge, Cleveland Strike Force,
U. S. Department of Justice

JANUARY 16, 1976

(The testimony of Mr. Coleman and Mr. Roller represents their personal observations and opinions and not those of the Justice Department.)

Statement of Mr. Coleman

Vigorous enforcement of Federal antigambling laws must be continued. Funds derived from illegal gambling operations are used to finance other illicit activities such as loansharking and prostitution. In addition, the proceeds from illegal gambling are often used to purchase legitimate businesses. In these cases, gambling personalities often exert considerable influence over the daily operations of the legitimate businesses.

Current Federal antigambling laws are adequate, but more resources--funds and personnel--are needed to make enforcement more effective. The Cleveland office of the Bureau of Alcohol, Tobacco and Firearms has too few personnel assigned to the enforcement of antigambling laws.

Court-authorized wiretaps are an indispensable tool in the investigation, development, and prosecution of gambling cases. This is particularly true with respect to 18 U.S.C. 1955 cases.

Statement of Mr. Roller

The primary function of the Organized Crime Strike Force in Cleveland is to coordinate the Federal law enforcement effort into a unified attack against organized crime. The Strike Force has prosecuted organized crime figures for a wide range of crimes including loansharking, fencing of stolen goods and securities, income tax evasion, narcotics violations, extortion, labor racketeering, mail fraud, hijacking, counterfeiting, and racketeer infiltration of legitimate business, among others.

The enforcement of gambling laws plays a key role in Strike Force efforts against organized crime. To date, 251 of the 301 individuals indicted by Federal grand juries have been convicted. Many of these cases have resulted in sentences of probation. There have been occasional sentences of incarceration for periods of 1 year or less. There has been some success in achieving substantial sentences for major

gambling figures who have resumed their gambling business following their conviction or failed to abide by the terms of their probation. More than 60 percent of those indicted for direct gambling violations have been identified as being associated with organized crime.

The substantial involvement of organized crime in bookmaking operations in the Northern District of Ohio, and the large amount of money generated by these businesses and available for investment in other activities, necessitate vigorous enforcement of antigambling laws.

Questioning by Commission members covered the following topics:

1. Pending bingo legislation. There is some evidence that "charitable" bingo games in Cleveland are run by organized crime. The legalization of bingo would attract organized crime.
2. War against organized crime. In the war against organized crime, the government has a slight edge. Organized crime is not running rampant and is not out of control.
3. Definition of organized crime. Organized crime figures are those traditionally associated with the violent, corrupting type of criminal organization.

TESTIMONY OF:

• Charles A. Vanik, Representative, U.S. Congress
JANUARY 16, 1976

The Department of the Treasury has failed to collect hundreds of millions of dollars in gambling taxes. Because of lack of cooperation among the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service and the main Treasury Department, the Nation's gambling tax laws have not been enforced during the past year. This means that gamblers, many of whom are organized crime figures, have escaped taxation.

During the first 9 months of 1975, the Treasury Department found only 1,100 gamblers to tax and collected less than \$4 million. This amounts to a tax rate of .00006 percent on a \$67 billion industry.

The IRS is responsible for collecting gambling taxes. The IRS, however, denies having responsibility for making civil assessments against violators, claiming that this responsibility belongs to the Bureau of Alcohol, Tobacco and Firearms. But ATF states that it has no authority and no auditing personnel capable of making assessments.

The IRS should be required to enforce the gambling tax laws. However, the Treasury Department has created chaos by dividing enforcement responsibilities between two of its subsidiary agencies. If no special enforcement effort is made against clever tax evaders, then the result will be selective enforcement against the poor, the middle class, and the honest taxpayer.

TESTIMONY OF:

- Corrin J. McGrath, Toledo Chief of Police
- Gerald Girding, Sergeant, Toledo Police Department

JANUARY 16, 1976

There is evidence that organized crime figures and their associates conduct 22 of the 50 bingo games operating in Toledo. The largest of the 22 games last year grossed more than \$2 million, but the charity it was ostensibly supporting received only \$25,000 from the operators. Organized crime is worried that strict regulation of bingo by the State would destroy its profitability. Organized crime groups are reported to have amassed several million dollars in lobbying funds to fight such a move by the State.

The lack of strong State regulation of bingo in Ohio may explain the heavy involvement of Michigan crime figures in Toledo's bingo games, since Michigan has very strict bingo laws that require reporting, State audits, and set percentages to be paid to charity. Current ambiguities in Ohio bingo law make it difficult for the police to stop fraudulent operations. Once arrests are made, convictions are difficult to obtain. One individual who was arrested 87 times received a total fine of \$822, or an average of \$9.50 each time. State courts did not make repeated offenses of this nature a felony, even though State law provided for this.

Local police departments should receive more assistance from the Federal Government in combating illegal gambling.

TESTIMONY OF:

- Lloyd F. Garey, Cleveland Chief of Police
- Carl I. Delau, Captain, Cleveland Police Department

JANUARY 16, 1976

Illegal gambling in Cleveland consists of card and dice games, bookmaking on horseraces and sporting events, and numbers, bolito, and bingo. There is only one major card and dice game operation in Cleveland. Another dice game--barbouth--is suspected of being backed by organized crime. In 1973 a killing and a bombing occurred in connection with barbouth operations. There also has been violence in connection with gambling conducted in private homes or clubs and with numbers operations.

The bookmaking operations in Cleveland must operate within an organized structure in order to receive rapid race results, determine odds, make layoff bets, pay off winners, etc. Most bookmakers in Cleveland operate from factories, business offices or other places of employment and do their business by telephone.

Current State laws and city ordinances that prohibit illegal gambling are adequate. But the courts are not providing a sufficient deterrent to illegal gambling. Fines are minimal and jail sentences almost nonexistent.

Gambling should not be decriminalized. The proposed bill in the State legislature to regulate bingo more stringently should be passed.

Questioning by Commission members covered the following topics:

1. Wiretap authority. Ohio law enforcement agencies should have wiretap authority.
2. Bingo. There is evidence that some bingo operations in Cleveland are run by organized crime.

TESTIMONY OF:

- William McKee, Prosecuting Attorney, Richland County, Ohio
and Chairman, Ohio Organized Crime Prevention Council

JANUARY 16, 1976

Ohio basically has a local law enforcement approach to crime problems. Local police do not rely on the State or the State police for law enforcement.

With respect to gambling cases, prosecution efforts are divided: misdemeanor prosecutions are handled by city solicitors; felonies are handled only by county prosecutors. County prosecutors should assume responsibility for misdemeanors so that repeat offenders can be prosecuted as felons rather than misdemeanants. Maximum penalties should be sought for repeaters.

In Richland County, organized crime does not run bingo operations. There is little or no illegal betting on baseball and basketball games through bookmakers. Horse-betting operations operate covertly by telephone; there are no horse-betting parlors. As a result of pressure by law enforcement agencies, football betting also has been forced to rely on the telephone rather than on runners. Ohio law enforcement agencies need to have wiretap authority in order to combat these covert telephone betting operations. Numbers is a big operation in Mansfield. Numbers operators there lay off bets regularly.

Last year Richland County had 40 gambling convictions out of 40 cases prosecuted. But there have been no jail sentences for those convicted, and the average fine has been only \$25.

There always will be people who want to gamble. Legal gambling should not be used by the State as a means of raising revenue but should be provided as a service to those who insist on gambling. Revenue from legal gambling should be used to make the games honest.

TESTIMONY OF:

• Gerald S. Gold, Cleveland Attorney
JANUARY 16, 1976

18 U.S.C. 1955 should be repealed. If it were repealed tomorrow, it would not affect the gambling community at all. It is a totally ineffective statute.

Many law enforcement officials state that organized crime uses money it makes through gambling to fund other activities such as narcotics trafficking. But there would appear to be a sufficient turnover in narcotics to make it a self-funding operation. The same holds true for prostitution.

Gambling is one of the most difficult charges to prove. Wiretaps of up to 30 days often are needed in many cases. The expense involved in making gambling cases is enormous, and the results are negligible.

Gambling should be legalized. Legalization would eliminate police corruption.

Questioning by Commission members covered the following topics:

1. Gambling and loansharking. Some people who lose money gambling go to loansharks. But this is not true only with respect to gambling. Many people who cannot get loans from a bank go to loansharks. Bookmakers do not generally operate in conjunction with loansharks, however.
2. Gambling sentences. The reason sentences for convicted gamblers are light is not that prosecutors and judges have been corrupted, but that there is no public sentiment in favor of strong sentences for gamblers. If there were strong public support for stiffer penalties, no judge or prosecutor could remain in office long if he showed too much leniency toward gamblers.
3. Organized crime. Organized gambling exists to the extent that many gambling operators require a large staff. But there is no national or international gambling conspiracy among organized crime groups.
4. Organized crime strike forces. By and large, the Strike Forces have accomplished very little in the gambling field. The time and money they spend do not justify the results they obtain. But they have done better in other, nongambling areas.

TESTIMONY OF:

• Gerald Patronite, Executive Director, Ohio State Lottery
JANUARY 16, 1976

The lottery is the most innocuous form of gambling. Today's State lotteries bear no resemblance to their notorious predecessors of the 19th century. When a lottery player buys a ticket, he pays in cash and incurs no debt. He has no loss to recoup, and the State is not his creditor.

State lotteries are an alternative to taxation; they are neither levies nor excise taxes..

Questioning by Commission members covered the following topics:

1. Advertising. The Ohio State lottery has a conservative advertising campaign. The lottery's advertising budget is approximately 1.3 to 1.5 percent of its gross income. This is much less than private industry spends on advertising. If the State wanted to attempt a "hard-sell" approach, it could probably sell \$200 million in tickets instead of the \$108 million it sold last year.
2. Role of Federal Government. The Federal Government should do nothing to impede the operation of State lotteries. Federal law should be revised to allow the lottery to sell out-of-State subscriptions through the mail. A 20 percent Federal withholding tax on lottery winnings would hurt the lottery. If lottery agents were required to purchase a \$500 occupational stamp, 80 to 90 percent of the current 12,000 agents would stop selling lottery tickets.

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TESTIMONY OF:

- Frederick C. Fehl, Acting Assistant Director, Federal Bureau of Investigation

MAY 10, 1976

Gambling is the backbone of organized crime, but not all illegal gambling is directly controlled by organized crime or warrants Federal scrutiny. The Federal Bureau of Investigation concentrates its efforts on a quality-versus-quantity concept of prosecution, focusing on those gambling operations with organized crime ties, operations with large volumes of business, or operations where there are indications of legislative, judicial, civic, or police corruption involved in the conduct of those operations. It is that no one agency can eliminate all illegal gambling in this country, and such was not the intent of Congress when it enacted five major antigambling statutes between 1961 and 1970.

Fifty-four percent of all identified syndicate members are engaged in some form of illicit gambling activity. Higher proportions of syndicate activity in gambling have been recorded in the larger metropolitan areas. Seventy-two percent of all known syndicate gambling operators are involved in other criminal violations; 42 percent act as loansharks, and 14 percent invest in narcotics traffic. Eighty-two percent of all known gambling operators have legitimate business holdings.

Faced with similar findings, Congress enacted the Organized Crime Control Act of 1970, of which Title IX was aimed at combating hoodlum infiltration of legitimate industries. The "Racketeer-Influenced and Corrupt Organizations" statute, also known as the "RICO" statute, has given the Bureau an invaluable tool in the fight against organized crime. The "RICO" statute has led to more than 40 convictions, including those of three ranking syndicate members in Los Angeles. Sentences in that case ranged from 15 months to 4 years.

Properly used court-approved electronic surveillance is a key factor in organized crime investigations. To date, Title III installations in Bureau gambling cases have resulted in 3,900 arrests, more than 2,000 convictions, and the confiscation of cash, property, weapons, wagering paraphernalia, and contraband valued in excess of \$10 million. The true value of Title III installations, however, lies not in the extra accomplishments it has made possible, but in the fact that few of them would have been possible without the use of that irreplaceable technique. In 1975, information from one Title III installation led to the conviction of the syndicate head in a Midwestern State on Federal gambling charges despite the fact the Government's prime witness had been shot to death prior to the start of the trial.

Violence is not uncommon in gambling despite its image as a "victimless crime." Most of the brutality in the underworld stems from the plight of bettors who are unable to make good on their gambling debts to their bookmakers or loansharks. The FBI does not view illegal gambling as a victimless crime.

History has shown that local enforcement of gambling laws will not work. Corruption is an integral part of organized crime; bribes are considered to be a regular business expense. The implication, however, that a majority of local police officials are dishonest, or that the FBI should take over the enforcement of all gambling laws, is not warranted. Cooperation between Federal and local authorities is vital in the fight against organized crime. The Federal Government cannot ignore an illegal enterprise that grosses more than the largest corporation listed on the New York Stock Exchange. No local or State government is capable of meeting such a challenge, and it would be unrealistic to expect it to. It is essential that all local, State, and Federal agencies work together against the underworld syndicate whose enterprises are national and international in scope.

The FBI is making considerable progress in the fight against organized crime. Since 1968, FBI gambling investigations have resulted in more than 4,500 convictions, including top syndicate officials in New England, New Jersey, Detroit, Chicago, St. Louis, Kansas City, Denver, and Los Angeles. Also included in that number were major non-syndicate gambling figures in New York, New Jersey, Florida, and California. Bureau gambling confiscations have amounted to more than \$21.5 million, and a total of almost \$6 million has been levied in fines as a result of those convictions. A total of \$27 million in fines and recoveries over an 8-year span is not an impressive figure, however, when compared to a possible wagering handle of \$50 billion a year as estimated by the President's Commission of Law Enforcement and Administration of Justice in 1967.

Fines, probations, and suspended sentences do not faze professional hoodlums. Only jail terms have proven to be an effective measure in the enforcement of gambling laws.

The laws in effect are good laws that have withstood the test of time and judicial review. They are neither repressive nor unduly restrictive. But to succeed in the purpose for which they were enacted, they must be vigorously enforced at all levels of the criminal justice system. Society receives little protection when prosecutors decline to prosecute or when judges continue to think of gambling in terms of a friendly game of poker, or as a matter to be handled by local authorities. It is no wonder people get discouraged about the deterrent effect of gambling prosecutions on the underworld

and talk of repealing or amending such laws when in the last three years only 714 of 3,093 persons convicted in FBI gambling cases received prison sentences. Even among professional law enforcement officials, the threat to society posed by illegal gambling is not fully understood.

Particularly susceptible to this misunderstanding are the numbers, policy, or bolita rackets in operation around the country. Local police officials fail to understand the gigantic size of most numbers rings. Ringleaders of a syndicate numbers operation in New York City estimated to have been in excess of \$100 million a year are currently awaiting trial. That is a lot of nickels, dimes, and quarters.

Aside from the scope of those operations, the possible threat they pose to the economic welfare of lower income bettors is one of the underlying factors which prompted Congress to inject the FBI into the national gambling picture. No longer can leaders of the mob conduct huge national gatherings as they once did. Today, the syndicate is reluctant to convene a meeting of its nine-member ruling body known as the "Commission" except in cases of dire necessity. That is one of the prime indicators regarding the success of the drive against organized crime.

It is not time for government to relax its prosecutive pressure or knuckle under to those who would deprive law enforcement agencies of their principal weapons: the gambling statutes enacted by Congress. Only the quality enforcement of the present statutes and the assessment of strict, meaningful sentences to those convicted of violating these laws can defend the community from the evils of organized crime.

Questioning by Commission members covered the following topics:

(Mr. Fehl was joined during the questioning by Mr. Walter Mangiacotti, Special Agent, FBI, and Mr. John McHale, Special Agent, FBI.)

1. Level of illegal gambling. The FBI believes that the \$50-billion estimate of the volume of illegal gambling quoted by the President's Commission on Law Enforcement and Administration of Justice was more accurate than the lower \$7 billion estimate of the Gambling Commission. There is no one inside or outside organized crime who could provide a viable estimate as to the gross annual national gambling handle. The Bureau has no way it can reliably analyze those estimates.

2. Amendment of 18 U.S.C. 1955. The FBI would have no objection to amending 1955 and raising what the intake must be prior to becoming a violation of the statute. Such a change would fall into line with the Bureau's quality-versus-quantity concept of gambling investigations. The larger the operation, the more likely that it is connected with organized crime.

3. Judiciary and sentencing practices. The rate of FBI gambling convictions in organized crime-related cases has increased steadily, but the imposition of a certain prison sentence rather than probation, suspended sentences, or an occasional long-term sentence would be a great deterrent to continued gambling offenses. If an individual is continually violating the law and continues to receive probation or a suspended sentence, there should be a point where the assessment of jail sentences become mandatory. The judiciary should take a hard look at the type of individual involved and the crimes committed at the time of sentencing. One Midwestern judge sentenced a subject to a 10-year jail term that resulted in his testifying against others. Numerous indictments and convictions were made in that area as a result of an assessment of a strict prison sentence for gambling violations.

4. Operation Anvil. The program took place between the latter part of 1971 and May 1972. The Bureau broke up gambling operations handling about \$1.2 billion during the short time the program was in effect. The Bureau's rationale behind the intensification program was to concentrate the Government's efforts to combat gambling operations throughout the country and to see what kind of effect such an operation could have in a short period of time. The FBI still concentrates a great deal of effort toward gambling investigations, but there is presently no existing program of the same scope or of the same priority level as Operation Anvil.

5. Utilization of resources against organized crime. The amount of manpower and resources devoted to certain forms of activity in the field offices depends upon the extent of those activities in each area. In the larger metropolitan offices, agents are assigned in such a way as to combat certain elements of organized crime. Their efforts are directed 100 percent of the time to organized crime-related violations and are unrelated to different violations that are handled by other agents within the division.

6. Gambling and loansharks. Approximately 50 percent of the people involved in gambling and loansharking are bettors who have not repaid their debts. Fifty percent of the loansharks known to the FBI are involved in some way with organized crime. Since the passage of the Extortion Credit Statute in 1968, the Bureau has had

270 convictions under that statute. Decriminalization of gambling by the States would not make gambling a victimless activity--people would continue to bet more than they could afford, become indebted, and go to a loanshark for money.

7. Corruption. The Bureau does not have figures to establish the fact that corruption is more closely related to numbers gambling than sports bookmaking. Logically, such a statement is probably true because a numbers operation is much larger in terms of personnel. The corruption statute, 18 U.S.C. 1511, is a difficult statute to work with in relation to 1955 violations, but the Bureau has made a number of cases with the statute.

8. Legalization. The exemption of gambling winnings from Federal taxation would be a big factor if legalized gambling is to succeed, but the need for credit and the services of loansharks would remain a problem. No legitimate agency would grant credit, but the underworld would. If a State were to offer all the advantages of the illegal operations, it could possibly hurt the underworld, but that cannot be known until it is tried.

TESTIMONY OF:

- John Corbin, Assistant Director, Office of Criminal Enforcement, Bureau of Alcohol, Tobacco, and Firearms.

MAY 10, 1976

Since the enactment of the wagering tax laws in 1951, responsibility for their enforcement had been placed with the Internal Revenue Service until December 1974, when the Secretary of the Treasury ordered the transfer of that responsibility to the Bureau of Alcohol, Tobacco and Firearms (ATF). At the same time, the excise tax on gross wagers was reduced from 10 percent to 2 percent and the cost of an occupational tax stamp was increased from \$50 to \$500.

When ATF began its new jurisdictional responsibility, its basic approach was to investigate impartially and vigorously all significant violations of the wagering laws, and the Bureau was prepared to move forward selectively where personnel was available without adversely affecting its responsibility in the enforcement of the Federal explosives and firearms laws. Five hundred agents located in the 40 largest metropolitan areas of the country were trained to be responsible for wagering investigations.

The Bureau requested an additional \$2 million for the balance of fiscal year 1975 and an extra \$6 million for fiscal year 1976 in order to finance the purchase of equipment and the hiring of 231 additional special agents and support personnel to enforce the wagering laws. This request was turned down by the Office of Management and Budget. What has been accomplished thus far by the Bureau in the area of wagering enforcement has been done within the Bureau's budget allocation prior to the increase in its responsibilities.

In 1974 and 1975, ATF expended 324,832 manhours in its wagering effort. Almost one-third of the manhours were expended on investigations which resulted in criminal cases. Fifty-three of the Bureau's 245 wagering investigations during that time resulted in recommendations for prosecution to various U.S. Attorneys. In those 53 investigations, the Bureau has executed 469 search warrants, seized 116 motor vehicles, and seized money in the amount of \$240,000. The Bureau has recommended that civil proceedings be initiated by the Federal Government to recover approximately \$25 million which has been seized and retained as evidence by local and State agencies.

In terms of priority within the Bureau, wagering investigations rank behind explosives investigations and firearm investigations. The present wagering enforcement level at ATF is at an absolute minimum because the Bureau does not have the manpower or the resources necessary to increase that effort.

Questioning by Commission members covered the following topics:

(Mr. Corbin was joined during the questioning by Mr. John Bridgeman.)

1. ATF involvement in wagering tax enforcement. The Bureau is charged with the responsibility for enforcing four laws at the Federal level, two of which involve public safety. ATF has no manpower or resources to investigate wagering tax violations and must first respond to violations that involve public safety. The Bureau's lack of activity in the area of wagering is due solely to budgetary constraints and not to any lack of enthusiasm or expertise. Wagering tax investigations are the greatest potential source of investigations involving other crimes such as loansharking, narcotics, gun laws, etc.

2. Effects of Marchetti-Grosso decision on wagering investigation. With the exception of wagering information, evidence uncovered by ATF in the course of its investigations may be turned over to the Department of Justice for prosecution. The names of people who hold tax stamps cannot be divulged except for tax violations, in accordance with the decision in the Marchetti-Grosso case.

3. Expense of ATF wagering investigations. Wagering investigations are very expensive, and because ATF lacks the authority to request wiretaps, extra personnel are necessary to perform extensive surveillance in wagering investigations. A substantial increase in the Bureau's budget would be necessary to supply ATF with sufficient resources to conduct proper wagering investigations.

4. ATF definition of organized crime. Any group or combination of individuals who conduct an illegal activity, sufficient to have an effect upon a city, an area, or a metropolitan sector.

TESTIMONY OF:

- Donald Alexander, Commissioner, Internal Revenue Service
- Singleton Wolfe, Assistant Commissioner, Internal Revenue Service
- Thomas Clancey, Director, Intelligence Division, Internal Revenue Service

MAY 10, 1976

As of December 1, 1974, when Public Law 93-499 went into effect, the price of the occupational tax stamp (WO) rose from \$50 to \$500, the excise tax on wagers (WE) was reduced from 10 percent to 2 percent, and a new restriction was enacted with respect to the disclosure of wagering tax information in an effort to rectify the problems that had arisen in the prior law that had prevented effective enforcement.

Wagering excise tax collections made in fiscal years 1974-1975 and the first half of fiscal year 1976 amounted to \$14,240,000; revenue collected from the 8,027 occupational tax stamps sold during that period totaled \$920,000.

During fiscal year 1975 and the first half of fiscal year 1976, the Audit Division expended 29,722 manours on wagering tax cases. The Intelligence Division spent 5,064 manhours during that period on WE, WO, and coin-operated gaming device (COGD) activities. An additional 25,072 manhours was expended by IRS special agents detailed to ATF during the first half of fiscal year 1976.

When responsibility for the enforcement of the wagering tax laws was passed to ATF, the IRS completed all investigations or collection activities undertaken by the IRS prior to December 1, 1974, and continued to perform administrative functions related to the wagering tax laws on behalf of ATF. On February 21, 1976, however, the Secretary of the Treasury issued a new order which returned civil enforcement of the wagering tax laws to the IRS, with ATF retaining responsibility for criminal enforcement of the tax laws. The IRS is currently working with ATF in the drafting of guidelines to define the respective responsibilities for the two agencies in wagering-tax matters.

The responsibility assigned to the IRS is too great for the resources granted to it. In fiscal year 1977, the Intelligence Division will have \$6 million cut from its budget, entailing a loss of nearly

400 positions, including some 200 special agents. The Service will do its best, within these limitations, to meet its obligation to administer all taxes, including wagering taxes.

In order to meet that obligation, the IRS needs such tools as Form 1099, which is now used to record only a fraction of the wagering conducted in the country, but which is useful in tax administration and tax enforcement. The Service favors the enactment of Section 1207 of H.R. 10612, the Tax Reform Bill of 1975, which provides for a 20 percent withholding tax on winnings received from wagering pools or lotteries of \$1,000 or more if the amount won exceeds the amount wagered by a ratio of more than 299 to one. Withholding at the source is the best way to insure compliance and would also prevent the filing of false Forms 1099 by "10 percenters." Passage of Section 1207 would permit more effective administration and enforcement of the wagering tax laws and the income tax laws relating to gambling income.

The enactment of a tax exemption for gambling winnings would make it considerably more difficult for the IRS to enforce the tax laws against those who try to evade them. The requirement that a person could produce an exemption certificate in order to obtain the exemption would not solve the problem of fraudulent certificates. It would be more difficult for the IRS to make net-worth cases against tax evaders.

The IRS recognizes that much of the income derived by those who engage in the operation of gambling schemes is not declared on tax forms, although such income is supposed to be taxed; even so, the IRS does not believe tax laws are the panacea for the problems of illegal gambling.

Questioning by Commission members covered the following topics:

1. Exclusion of income for tax purposes derived from legal gaming operations. The IRS is concerned about the effect such an exemption would have upon people who do not make their income from gambling but who support those persons whose income would be tax-exempt. The IRS could no longer discover tax fraud against an individual through a net-worth investigation if that person could claim he won the money by gambling. It would be very easy for a person to wager \$100,000 on a gambling activity, lose \$10,000, and be able to report a \$90,000 tax exemption on money which was not actually earned by gambling. Such an exemption would provide

organized crime with a means to launder their money from other illegal sources. It is possible that the IRS would have to abandon tax enforcement activity against organized crime if such an exemption were enacted. It is unrealistic to believe that organized crime would not find another means of livelihood.

2. Coin-operated gaming devices. The tax assessed on COGDs does not require much administrative effort by the IRS; although the revenue derived is not significant, enforcement of that wagering tax law pays its own way.

3. Nevada casinos. The IRS may only enter the counting rooms of a casino after the casino has filed its tax return for that year. Hence it is very difficult to conduct a study to determine if casinos are underreporting their income because of the nature of transactions in the casino and also because the IRS may only check the counting room after the fact. Only State governments are authorized to enter the counting rooms prior to the filing of the tax returns, but IRS attempts to work out a relationship with the State of Nevada have not been successful. Any legislation which would force a State government to provide such information to the IRS, and thus insure that every dollar bet and paid out was properly recorded, would help in determining the tax liability of gamblers.

4. Tax liability determination. The tax law provides that all tax income, from whatever source, is taxable unless exempted by Congress. If a person's income is increased by a greater amount than was reported on his tax return, the IRS investigates net worth, bank deposits, or other data to determine the taxable income. Although the IRS attempts to determine the source of income, it is not always necessary to prove that source. The Service need only prove that there is taxable income and that it was not reported.

5. Wagering taxes: cost versus collection. Returns from the wagering taxes far exceed the cost of administering those taxes. If winnings were made exempt, the Government on a net basis would fall behind.

TESTIMONY OF:

- William Bavinger, Assistant General Counsel, Securities and Exchange Commission
- Charles A. Pardee, Associate Chief Accountant, Division of Corporation Finance, Securities and Exchange Commission
- David P. Tennant, Special Counsel, Securities and Exchange Commission
- Morris Lafferman, Senior Enforcement Accountant, Securities and Exchange Commission

MAY 10, 1976

The ability to audit a casino depends on the quality of the internal control procedures utilized by that casino. Control over employee handling of cash is particularly critical. The SEC believes that, if a casino has a satisfactory system of internal control procedures, an accountant who applies appropriate audit techniques can determine the fairness of the financial statements as well as the accuracy of such audits. The American Institute of Certified Public Accountants has also reached this conclusion.

The SEC relies upon State and local gaming authorities, management, and independent auditors to insure the existence of such controls. It also relies on investors who have "implied or expressed rights of action" under Federal securities laws where disclosure in filings has been materially misleading. The Supreme Court has recognized these private rights of action as a necessary supplement to the SEC's administration of the Federal securities laws.

The SEC does not have specific requirements directed toward companies conducting gaming operations. Its general rules require disclosure by such companies of all information necessary to prevent investors from being misled. The SEC also has specific rules, applicable to all companies, which require the disclosure of directors, executive officers, and principal shareholders, the remuneration of directors and officers, and the interest of management in certain transactions, including loans.

All companies that own casinos must submit filings to the SEC which are reviewed by the Division of Corporate Finance to determine whether they are complete and in conformity with SEC rules. Because of the unique features of gambling operations and their inherent internal control problems, the Division often pays close attention to those filings. Where appropriate, the Division will forward a copy of a particular company's filings to the SEC's Division of Enforcement for comment and review. Copies also are sent to the appropriate State gaming authority. Unless the SEC becomes aware of information

that warrants an investigation, it must rely upon management and the independent auditor to insure the accuracy of the disclosures received in filings. The independent auditor is required to expand the scope of his examination if he becomes aware that internal controls are not working properly. He must also inform the SEC, which could initiate an investigation.

In appropriate cases, the SEC may conduct its own investigation regarding the adequacy of filings. Generally, such investigations can be conducted only where there is some indication that a violation of the Federal securities laws may have occurred.

Questioning by Commission members covered the following topics:

1. Nevada casinos. Because of the weakness of internal controls at some casinos, it is difficult to prove skimming unless it is known who receives the money. The State of Nevada was not always strict in the enforcement of its codes. Most revenue is derived from credit play, and it is often difficult to keep track of markers (credit slips). SEC now requires that more information be filed by publicly owned casinos, and relations between the SEC and the Nevada Gaming Commission have improved. Only the 14 publicly held casinos in Nevada need to file SEC Form 10(K). The internal control procedures that have been established are effective insofar as the SEC can determine, but that may not be the case with respect to privately held casinos.

2. SEC and State of Nevada. The control efforts of the State of Nevada have been improving, and its relationship with the SEC is better than it once was. The SEC has access to Nevada Gaming Commission records on a voluntary basis or through subpoena power if an investigation is being conducted. It does not routinely review those records, which back up the information provided in the filings by the casinos, unless an impropriety appears and an investigation is warranted. The Securities and Exchange Act and other Federal securities laws give the SEC adequate subpoena power to obtain whatever information it needs to conduct its administration of the Federal laws. The subpoena power of the SEC may not extend to other governmental agencies, but voluntary cooperation is accorded to the SEC in specific instances by the Nevada Gaming Commission.

3. Markers. For tax purposes, the Nevada casinos treat markers as nonreceipt of income until they are paid. Income is kept

on a cash basis, a practice that has resulted in a number of battles between the IRS and Las Vegas casino owners. The casinos argue that markers are not legally collectable, and therefore the income is not really taxable until they are paid. For the purposes of the SEC, such a system does not adequately reflect casino operations or balance-sheet statements unless everything is shown on an accrual basis. The SEC's Form 10(K) requires accrual recording, but accounts receivable are not shown as assets. The SEC attempts to make an evaluation of the assets for the purposes of securities. Reserve receipts for casinos range between 10 percent and 15 percent.

TESTIMONY OF

- Jay C. Waldman, Deputy Assistant Attorney General, Criminal Division, Department of Justice
- William S. Lynch, Chief, Organized Crime and Racketeering Section, Department of Justice
- Alfred W. King, Attorney with the Organized Crime and Racketeering Section, Department of Justice

MAY 11, 1976

In the United States, gambling is a fact of life which cannot be effectively prohibited by legislation. Nevertheless, while the national schizophrenia about gambling persists, the Department of Justice maintains its responsibility to vigorously enforce those Federal laws directed against large-scale gambling operations.

Those who govern organized crime's monopoly in illegal gambling are exploiters of the poor, loansharks, narcotics merchants, corruptors of public officials, and parasites who sap the vitality of the Nation's commerce. The largest numbers banks draw the bulk of their business from the ghettos of the Nation's largest cities, and illegal gambling supplies loansharks with their victims and the capital to make usurious loans to those victims.

Of primary importance to the Federal law enforcement effort against syndicate-type gambling operations is 18 U.S.C. 1955. This statute prohibits the operation of an illegal gambling business in violation of State law. Gambling cases provide 20 percent of Federal syndicate convictions; in fiscal year 1975, Section 1955 accounted for 85 percent of Department gambling convictions. Unlike other Federal antigambling statutes that were enacted prior to the passage of Section 1955 in 1970--i.e., 18 U.S.C. 1952 and 1953--there is no specific "interstate commerce" nexus required in Section 1955. The statute is therefore effective against both local numbers games and nationwide sports betting operations. Those statutes related specifically to interstate commerce have not proven as effective as Section 1955 because the latter attacks an illegal gambling business head-on, rather than through indirect means.

Illegal gambling business investigations and prosecutions have led to the conviction and incarceration of a number of crime syndicate leaders from Boston to Los Angeles. The peak number of gambling cases in 1972 and 1973 was disproportionately high as a result of an intensification of gambling enforcement undertaken in 1971-1972. The decline in such cases was caused, to a great extent,

by the protracted judicial controversies surrounding the Attorney General's delegation of authority for approving Federal court wiretap orders to subordinates, and by the extent of the minimization of intercepted conversations required by the intercept statute. Once those controversies were settled, antigambling activities began to increase, causing a rise in gambling convictions in 1975.

The absence of a specific interstate commerce nexus does not imply that the Federal Government has preempted State government in the gambling field. Every major Federal antigambling law continues to have specific exemptions for State action or is itself dependent on State law. Failure of State and local authorities to enforce such laws should be read as a sign of substantial corruption as much as an indication of public consent to repeal antigambling laws. The Department sees no danger of Federal preemption in the enforcement of gambling, and would oppose as unnecessary any statute specifically empowering States to regulate gambling within their borders. There is no need to enact a McCarran-type act of endorsement of State power to regulate or prohibit gambling. There is no doubt that the States have that power.

States choosing to do without legalized gambling should not have that choice annulled by the use of interstate commerce channels by States that have chosen legalization. States that wish to exclude another State's authorized lottery should not be required to pass a specific statute in order to prohibit such activity from being conducted within their borders. If such a recommendation were enacted, those States which have not yet prohibited specific forms of gambling or gambling paraphernalia would be flooded with out-of-State gambling operations until those States expressly prohibited such activity. States desiring the entry of other State-conducted lotteries should instead be empowered, by State statute, to exempt from the effects of Federal law lotteries operated by other States.

Gambling enforcement forms the largest single conviction category of organized crime members. Title III surveillance has demonstrated that conversations between high-echelon figures are frequently concerned with illegal gambling. Illegal gambling is likely to be their most profitable business, and gambling "executives" like to take an active role in running the business. For this reason, the Department would vigorously oppose any move to repeal Section 1955. Its repeal would seriously hamper the coordinated national attack on organized crime-dominated gambling businesses.

The Department would oppose any recommendation that the jurisdictional amount under Section 1955 be raised beyond the present \$2,000-a-day limit. Such an action would not have the effect of confining prosecution to syndicate gamblers; even if it had such an effect, enforcement would not be necessarily desirable. The Department should be free to investigate and prosecute cases of a local nature. A majority of prosecutions under the existing statute provisions would not be possible if those provisions were increased. If the size of the daily handle were increased to \$10,000 in the statute, the drop in general enforcement would impact most heavily in the Northeast (74 percent) and the Midwest (77 percent), where syndicate influences are highest. Nationwide, there would be a 68 percent drop in Federal gambling enforcement and a 72 percent decrease in syndicate-related gambling enforcement. The practical result if such an increase were made would be a greater reliance on the 30-day provision of Section 1955 and a longer duration of a court-authorized wiretaps-- with a resulting increase in costs to the investigating agency. The statute works admirably, and there is no need to change it.

Section 1955 will continue to be used vigorously but prudently against major illegal gamblers because it provides for Federal enforcement capability in an area in which organized crime members are most vulnerable to prosecution. The interests of effective law enforcement will best be served not by repealing the current gambling statutes but by vigorous enforcement of them.

Questioning by Commission members covered the following topics:

1. Illegal gambling and organized crime. Gambling is the cash register of organized crime. It is the source from which monies are generated into other illegal activities. Inroads are being made against organized crime, generally through the vehicle of organized crime gambling prosecutions, but gambling revenues remain the largest source of income for organized crime. If legal gambling winnings were excluded from income, and if credit, daily payoffs, telephone service, and other conveniences were available in a legal game, such a system might help to eradicate organized crime gambling operations, but it would not break the backbone of organized crime. Organized crime would have less cash with which to operate, but it would continue to make money in other ways.

2. Gambling enforcement by the Justice Department. Gambling is a much more involved, expansive, and visible operation than are some of the more clandestine crimes such as narcotics. It is often the most vulnerable spot at which an organized crime syndicate can be attacked. In attempting to deal with problems of gambling enforcement, the Department tries its best to be innovative and to be able to adjust to new situations. Under the RICO statute, the Department has moved to enjoin such operations so that their members will in the future be subject to contempt-of-court citations and prison sentences.

3. Effectiveness of Section 1955. When a number of high-echelon syndicate figures in New Jersey and in the Pittsburgh, Kansas City, and Chicago areas were convicted under Section 1955, their local gambling operations were greatly affected. Many were convicted in civil cases (under Section 1964) which are predicated on a violation of Section 1955. A number of Section 1511 convictions have occurred as a result of the testimony of those who were convicted for violations of Section 1955. Currently, nearly 70 percent of those indicted under Section 1955--and 90 percent of those who go to trial--are convicted.

4. Enforcement priorities. The Department feels that with the limited budget resources available for law enforcement, it has to allocate those resources at the Federal level to combating criminal organizations that pose the most serious threat to society. The Department seeks large-scale criminal operations where gambling is also involved with narcotics or corruptive influences on the community. The only way the Department can effectively meet its responsibility to enforce the laws entrusted to it is to concentrate its priorities on the most high-impact offenders in each category. Given its present budget resources, the Department cannot eradicate illegal gambling or narcotics activity. It can, however, impact significantly on syndicate gambling that leads to other ills.

5. Illegal gambling volume in United States. The Department cannot be aware of all illegal gambling, but it estimates the volume of such gambling in the United States to have been \$29.8 billion in 1973.

6. Local gambling enforcement. If laws on the books are not enforced, the populace cannot judge which laws should be on the books and which should not. The Department does not mean to suggest that there are no honest law enforcement people at the local level or that some do not honestly conclude that they cannot

allocate resources to certain kinds of crime because of limited law enforcement resources. On the other hand, history has shown considerable systematized corruption in metropolitan areas which have been directly linked to gambling.

7. Sentencing. There is a great need for uniform sentencing standards in all areas of enforcement--not just in gambling. If need be, sentencing practices should be outlined statutorily or in some cases made mandatory. The certainty of justice is extremely important and a substantial deterrent in all areas of crime. Someone who has been convicted and faces a certain jail term takes an attitude toward cooperating with authorities that is different from someone who is sentenced only to probation. More inroads would be made into gambling operations and the corruption they entail if the certainty of incarceration were there.

TESTIMONY OF:

- Ashton Hardy, General Counsel, Federal Communications Commission
- William B. Ray, Chief, Complaints and Compliance Division, Broadcast Bureau, Federal Communications Commission

MAY 11, 1976

The Federal Communications Commission's responsibility regarding the broadcast of lottery information was changed substantially with the January 1975 enactment of Public Law 93-583, which included 18 U.S.C. 1307, a broadcast exemption for State-conducted lotteries. The new law permits the broadcast of lottery information by stations within a State which has a State-operated lottery. Those stations may also broadcast lottery information to those lottery States contiguous to that State.

Prior to the passage of the new law, the FCC and the Justice Department petitioned the Supreme Court to review an appellate court decision that, in effect, upheld the right of stations to broadcast lottery information that "directly promoted" a lottery. The FCC appealed that decision, arguing that the announcement of the winning number in a State lottery, even in the form of a news report, constituted a direct promotion of the lottery and was thus prohibited by Section 1304. (The Third Circuit Court of Appeals had held that news broadcasts were protected by the first amendment and were thus exempt from the prohibition of the statute.)

Subsequent to the FCC's appeal, but prior to a Supreme Court decision, Section 1307 became law. The Supreme Court then remanded the case to the Third Circuit for a determination of mootness in light of the new statute. The lower court ruled that the challenge to the FCC's interpretation of Section 1304 was not moot because it could still be applied to broadcasters in nonlottery States. The FCC at that time decided not to pursue the matter further, feeling it would be appropriate to await a test case.

While the FCC has not issued a definitive opinion on the subject, it believes that sports events in general are to be viewed differently from lotteries or horseracing. The FCC--concerned with any activities of broadcasters which tend to benefit illegal gambling--has specified in detail what information may be disseminated

about horseracing. (See FCC Supplemental Declaratory Ruling 1964.) The odds applicable to other types of sporting events are more likely to be of interest to a sports enthusiast independent of any financial interest. A fan may be interested in knowing if his team is an underdog in an upcoming game, and--unlike horse-racing--the broadcasting of odds for sporting events on a regular basis does not provide the rapid results from previous contests or last-minute changes in the morning line that most gamblers need and use. Broadcasters have given odds for sporting events on a regular basis in the past without incurring FCC sanctions against the practice.

From 1975 until the present, the FCC has issued forfeiture notices, denied license renewals, and issued conditional licenses: to several licensees for violations of Section 1304. The dissemination of odds by broadcasters will continue to be examined on a case-by-case basis through license renewal proceedings to determine if there has been any witting aid to illegal gambling. Recent FCC orders indicate that a reasonable liability standard is being applied to the broadcasting of lottery and gambling information in general.

Questioning by Commission members covered the following topics:

1. Football broadcasts and illegal gambling. Under the first amendment, a broadcaster has the right to broadcast whatever is deemed to be of public interest, absent a "clear and present danger." When aid to illegal gambling may be involved, the FCC must study the situation carefully to determine whether there is a clear and present danger. The FCC recognizes the vast entertainment interest in sports programming apart from its role in illegal gambling.

2. Point spreads. If it could be determined that more bets are made on games for which the point spreads are broadcast, that in itself would not prove that the broadcast or the broadcaster willfully violated gambling policy.

3. FCC sanctions. When it is determined that a broadcaster knowingly disseminated information that substantially aided illegal gambling, the FCC has the authority to impose sanctions against that broadcaster. Generally, the FCC looks to the Department of Justice to tell it what kinds of broadcasts appear to aid

illegal gambling. Radio and television stations are licensed every three years; they are aware of the FCC's concern about illegal gambling and often ask the Commission what its policy is regarding certain types of programing. Few stations would jeopardize their licenses by knowingly aiding and abetting illegal gambling.

4. Horseracing broadcasts. The live, continuous broadcasting of racing cards, odds, and post times on a daily basis substantially encourages illegal gambling. The FCC has adopted a policy that makes it improper to broadcast a series of races on a continuing basis.

JUNE 23, 1976
WASHINGTON, D.C.

- Robert Kahn (Survey Research Center, University of Michigan)
- Maureen Kallick*
- Daniel Suits*

*Accompanied the witness

TESTIMONY OF:

- Robert Kahn, Director, Survey Research Center, University of Michigan
- Maureen Kallick, Program Director, Survey Research Center, University of Michigan
- Daniel Suits, Professor of Economics, University of Michigan

JUNE 23, 1976

During the summer of 1975, the Survey Research Center conducted two surveys, one national and the other in the State of Nevada. Information was sought on the gambling activities of the United States population age 18 years and older on the attitudes and opinions held by that population in reference to both legal and illegal gambling, and on their opinions about government policy toward gambling.

The overall response rate was 75.5 percent. Of the designated respondents from whom interviews were not obtained, 11 percent were refusals. Miscellaneous reasons--not at home, illness, language difficulties, and so on--accounted for the remaining 12.6 percent. Altogether 1,736 people were interviewed for approximately 1 and 1/2 hours each.

Because of the unique gambling situation in Nevada, residents of that State were sampled separately. The response rate in Nevada was 70 percent.

In questions on various types of betting, each game was referred to by name--i.e., lotteries, bingo, casinos, etc., not by category such as "legal commercial games," "illegal games," "friendly bets," and so on. It was only during the period of data analysis that the definitions "illegal" "legal commercial" and "friendly" were affixed to the appropriate sets of games. In fact, the word "illegal" did not appear in the questionnaire at all. The total picture of participation in illegal gambling and the dollar figures involved were drawn from numerous individual questions on types of gambling known to the analysts to be illegal, but never designated as such in the questionnaire.

The pattern of gambling participation revealed by the survey shows that 68 percent of the sample--equivalent to 98 million adult Americans--have placed a bet at some time in their lives. But 7 percent of the sample--equivalent to 10 million--were people who

had bet in earlier years but did not bet currently. This leaves 61 percent--or about 88 million adults--who gambled during 1974.

Some of this reported gambling was with friends, co-workers, and the like, ranging from card games (38 percent) friendly bets on professional football (20 percent) to elections (2.3 percent), backgammon (1.4 percent) and majong (0.5 percent).

Although friendly betting is widespread, only 13 percent of the sample reported that they confined their gambling exclusively to friends. The remaining 48 percent--about 70 million people--also engaged in commercial gambling, ranging from such legal forms as buying lottery tickets (24 percent), bingo (19 percent) and parimutuel horseraces (14 percent) to illegal betting with sports bookies (4 percent), numbers (3 percent), and horse bookies (2 percent).

Of the total population, 37 percent (about 53 million people) restricted their commercial gambling to legal activities, but 11 percent reported placing illegal bets, including 4 percent (over 5 million adults) whose commercial gambling was exclusively through illegal channels.

On the question of what kind of people gamble, the survey shows that gambling is an activity engaged in by people of every section, class, income, and background, but that some groups are more prone to gamble than others. Men are slightly more often gamblers than women, and whites more often than members of other races. The proportion of gamblers falls markedly with age from 73 percent of those 18-24 down to 23 percent of people over 65. On the other hand, gambling participation rises sharply with income from less than a quarter of persons with incomes below \$5,000 and barely half of those in the \$5,000-\$10,000 bracket to 74 percent of those with incomes over \$15,000.

Likewise, gambling participation rises with education from 41 percent of those who never finished high school to 79 percent of college graduates.

Among religious groups, the proportion of gamblers is highest among Catholics (80 percent), Jews (77 percent), and liberal Protestants (74 percent), but lowest among Baptists (45 percent), atheists (40 percent), and Bible-oriented Protestants (33 percent).

By far the largest average betting volume is found among patrons of New York's off-track betting shops. The 13.5 percent of New

Yorkers who patronized OTB in 1974 bet an average of \$1,118 that year on OTB. This averages \$20 per week and is almost double the average sports book wager and more than double the wagers at horse tracks, casinos and with illegal horse books.

Regarding gambling by Nevada residents, the survey shows that more Nevadans gamble than do other Americans--76 percent of Nevada residents placed legal commercial bets during 1974 compared to 44 percent of the population at large. On the other hand, only 4.3 percent of Nevada residents reported illegal gambling compared to 11.2 percent of U.S. adults, and the average annual illegal bet of Nevada residents also was somewhat smaller. Almost all of the illegal gambling by Nevada residents was with horse and sports books.

Among the population as a whole, Americans wagered a total of \$22.4 billion on the ten commercial games surveyed. The largest handle was at horse tracks (\$7.9 billion), followed by legal casinos (\$6.1 billion), bingo (\$1.7 billion) horse books (\$1.4 billion), numbers (\$1.1 billion), almost \$1 billion for OTB, \$6 billion for lotteries, and smaller amounts for sports cards and illegal casinos.

Of the total amount bet, \$17.3 billion was wagered legally and \$5.1 billion illegally.

The survey also examined the revenue potential of legalized gambling. If all types of gambling were legalized by all the States, the maximum yield would be a handle of about \$125 billion with net revenues to the States of about \$8.3 billion. This latter figure may be compared to the 1974 total State and local receipts of \$209 billion from all sources, including \$106 billion from sales taxes, \$44 billion in Federal grants-in-aid, and \$40 billion from personal income taxes. In other words, the maximum figure that can reasonably be projected for gambling revenue represents no more than a 4 percent addition to State and local revenues.

Regarding public attitudes toward legal gambling, the survey shows that about 80 percent of respondents said they favored legalization of at least one of the 13 gambling activities asked about, but, except where a game was already legal there was no consensus about which game should be legalized. For example, where there are legal horse tracks, 73 percent of those surveyed favored their continuation, but elsewhere, only 47 percent favored legalization. While such figures demonstrate that there is no strong constituency

for legalization of gambling where it does not exist, neither do they indicate the existence of substantial opposition.

An important aspect of the question of legalization is the question of whether, if legalized, the legal facilities should be State-operated or left to private business. When asked, a clear majority preferred operation of the facility by private business, subject to governmental regulation rather than outright State operation. The sole exception was legal numbers, which 65 percent thought should be government-operated. In general, gamblers expressed a greater preference for privately operated facilities than did nongamblers.

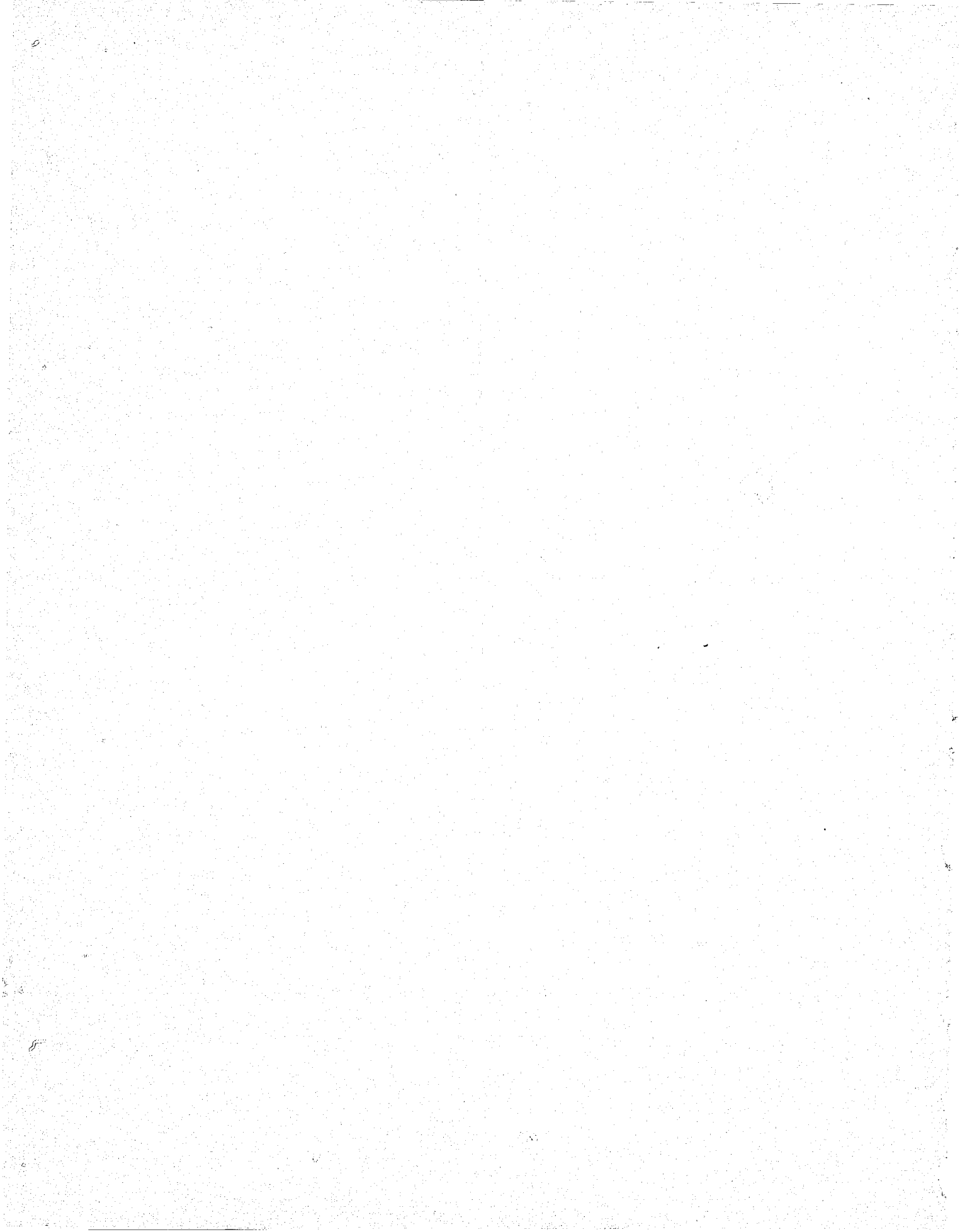
On the issue of compulsive gambling, the survey shows that slightly less than 1 percent of the national sample could be classified as probable compulsive gamblers. An additional 2.3 percent of the sample were considered as latent or potential compulsive gamblers.

* * *

Following their reading of the prepared statement summarizing the survey's findings, the witnesses were questioned by Commission members and staff, media representatives, and experts in the field of survey taking. Most of the questioning concerned the survey's findings with respect to the amount of illegal gambling that takes place each year. There was a consensus among the questioners that the survey estimate of between \$2.5 and \$5 billion was too low. An attempt was made to determine through the questioning process whether the survey could have missed a subculture of bettors who wager extremely large amounts of money illegally each year. Questioners also made reference to the low response rate in central cities, suggesting that among the nonrespondents there were many people who, because of their illegal gambling habits, would be particularly unwilling to talk to survey takers.

The witnesses defended the survey's findings. They stated that even accounting for the two factors mentioned above--a gambling subculture of heavy bettors and the low response rate in central cities--the amount of money wagered illegally could not exceed \$10 billion. This figure is still far lower than the estimates provided by the Justice Department of \$29 billion to \$39 billion.

The Commission's conclusions on this issue of illegal wagering are contained in its final report. Appendix volume 2 of the Commission's report contains the complete survey report prepared by the University of Michigan's Survey Research Center.



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- Arlington Butler (Gaming Board of the Bahamas) 526

TESTIMONY OF:

- Sir Arthur Peterson, Permanent Undersecretary of State, Home Office, Great Britain
- Sir Ronald Radford, Chairman, Her Majesty's Customs and Excise; Great Britain
- Sir Stanley Raymond, Chairman, Gaming Board of Great Britain
- William Stephens, Secretary to the Gaming Board of Great Britain
- Kenneth Witney, Special Consultant to the Royal Commission on Gambling, Great Britain
- Arlington Butler, Chairman, Gaming Board of the Bahamas

SEPTEMBER 20-23, 1976

[NOTE: The National Gambling Commission conducted four days of hearings on the subject of gambling in Great Britain and the Bahamas. The hearings dealt primarily with the topic of casino gambling. The material that follows is a synthesis of the witnesses' prepared statements, question and answer sessions, panel discussions, and background material furnished by the witnesses.]

CASINO GAMBLING IN ENGLAND

Background

Statutes passed in the 16th, 17th, and 18th centuries were the basis of British gambling law until 1960. These laws were based on the general assumption that gambling presented serious moral and social problems. Before 1960, most forms of gambling were illegal in Great Britain except: Commercially organized football (soccer) pools; credit betting with bookmakers (cash transactions were prohibited); on-track betting at horseraces and dograces; and private wagering among friends.

There are no reliable estimates on the amount or volume of gambling that took place prior to 1960, but in 1951, the Royal Commission on Betting, Lotteries, and Gaming estimated that not more than 1 percent of an individual's personal expenditure each year went for gambling, and that the proportion of national resources absorbed by gambling was 1/2 of 1 percent.

The limited type of betting on credit prior to 1960 catered mainly to the middle and upper classes. But the working class could place illegal wagers on the street, in pubs, and in factories. Enforcement of gambling laws often was difficult due to ambiguities in the law.

In 1951, the Royal Commission on Betting, Lotteries, and Gaming studied all forms of gambling and made specific recommendations for changes in the law. The Commission found the law to be basically "obscure, illogical, and difficult to enforce." It stated that gambling within reasonable bounds would not seriously harm the individual, his family or the community and that the majority of gamblers were able to control the money they spent on gambling. Further, it found that gambling did not appear to be a direct cause of either serious crime or minor offenses. On the basis of these findings, the Royal Commission recommended that most types of gambling be legalized and strictly regulated to prevent abuses. With regard to casinos, the Commission recommended that only those games should be permitted that provided equal chance to all players, including the operator. The Commission stated that gaming promoters should not be permitted to levy a charge while the game was being played. It recommended that gaming in public places such as shops and on the street be prohibited because it was a public nuisance and that gaming in licensed establishments such as pubs should also remain illegal because a danger existed that the player, particularly if he were drinking alcoholic beverages, would gamble to excess. The Commission made a distinction between games that require an operator to monitor the play and distribute prizes and those in which machines perform these two functions. It said that the latter--primarily slot machines--should remain illegal because the action was so fast that it might entice players to quickly lose more than they could afford. Although the Royal Commission made fairly sweeping recommendations in the direction of further legalization of various forms of gambling, the gambling statutes enacted in the 1960's went even further.

The first significant British gambling legislation of the 20th century was the Betting and Gaming Act, 1960. This act put to rest any lingering sentiment that gambling was an immoral activity deserving of strict official prohibition. Some observers saw the act simply as a piece of egalitarian legislation, for the first time permitting off-track cash wagering as opposed to the previously legal credit wagering in which only the middle and

upper classes could participate. In the area of casinos, the act sought to restrict this form of gaming to members' clubs only and to prevent its commercial exploitation. The statute also provided that all games offered had to provide an equal chance of winning to all players and that no charge could be imposed for participation. The act was amended in 1963 by the Gaming and Lotteries Act, 1963.

Unfortunately, both the 1960 and 1963 gaming statutes contained a number of ambiguities and loopholes which resulted in the creation of a casino gambling environment that was wholly in conflict with the statutes' intent. Instead of confining casino gambling to a small number of private clubs operating on a non-profit basis, the gaming legislation paved the way for the establishment of hundreds of commercial casino clubs. By the late 1960's there were about 1,000 casino clubs in England whose advertising and commercial promotion practices were virtually unregulated. Additional loopholes in the gaming legislation led to the establishment of commercial bingo clubs and these clubs, in turn, began introducing various casino games to their bingo customers.

The casinos that operated in England during this period employed a variety of devices to attract clients, all contrary to the gaming statutes' intended purposes. In a number of areas, large casino clubs opened that combined gaming with cabaret entertainment. These establishments featured popular, highly paid performers, and their proprietors asserted that such entertainment could not be provided without the benefit of casino earnings. Thus, customers who were attracted to a particular club for the entertainment also were exposed to casino gambling.

Bingo clubs, too, employed a number of questionable promotional techniques. They actively advertised large jackpot prizes that could rarely be won. Finally, the gambling legislation of the early 1960's contained loopholes that resulted in the proliferation of gaming machines in cafes, pubs, restaurants and other places, thereby reaching large segments of the population which theretofore had manifested no interest in gambling.

Because neither the 1960 nor 1963 gaming statutes had anticipated the gaming situation that actually resulted, they failed to provide any meaningful control over gaming activities. No controls were applied regarding membership in casino or bingo clubs; controls were lacking regarding the types of games that could be offered and the rules under which games could be played.

Eventually, there were signs that some of the casino and bingo clubs were being infiltrated by members of the American criminal underworld.

Against this background, the British Parliament enacted The Gaming Act, 1968. This legislation proved successful in closing all of the loopholes contained in the two previous statutes relating to gaming. The act created a strict licensing and control system that is still in effect today.

Casino Gambling Today

Casino gambling in England is viewed as a morally and socially acceptable activity, but one which should be neither promoted nor exploited due to its great potential for abuse. The British gaming structure is designed to meet a preexisting demand for gambling facilities without creating any additional demand through artificial means of stimulation. In addition to meeting this "unstimulated demand of the indigenous population" for casino gaming, the 1968 gaming act was enacted to reduce criminal influence existing in illegal gambling establishments, and to prevent gambling operators from deriving excessive profits from this activity.

Gaming Control. The 1968 act created a Gaming Board to regulate and supervise all casino and related gaming activity. The primary responsibility of the Gaming Board is to investigate the trustworthiness of all applicants for commercial gaming licenses. Following a thorough investigation of an applicant, including his background, business associates, and financial resources, the board may decide either to grant or deny a certificate of consent to the applicant.

Once the applicant receives a certificate of consent, he must apply to the local courts for a gaming license. At this stage, public hearings are held, and the local justices, in conjunction with the Gaming Board, attempt to determine whether there is an actual need for additional gaming facilities in the area in question. Since an important responsibility of the Gaming Board is to restrict the total number of casinos that may be licensed, this phase of the licensing process is more than a mere formality. Before the gaming license is granted it must be shown that an unstimulated demand for an additional casino is present. Such a need may be considered to exist, for example, if the casinos in an area are

consistently overcrowded. Currently, there are approximately 128 casinos in England, many of which are small one- and two-table operations.

An applicant who has been denied a certificate of consent by the Gaming Board cannot appeal the board's decision, since the granting of a certificate and gaming license is considered a privilege rather than a right. The Gaming Board also is empowered to revoke gaming licenses, but in this instance, the licensee can appeal the decision. Some officials within the British Government believe that the gaming licensee should be prohibited from appealing a decision by the board to revoke his license; while others believe that the Gaming Board's powers already are too strong, and that the board should be made more accountable for its actions.

Taxation. In England, there are two agencies responsible for tax matters--the Board of Inland Revenue and the Board of Customs and Excise. The first deals with direct taxation--personal and income tax, and corporate taxation. The second is concerned with customs duties and with excise taxes on commodities.

The first successful tax on gambling activities in England was imposed on football pools in 1947. Next a tax on greyhound racing was introduced, followed by an excise tax of 2.5 percent on bets made with bookmakers. Casinos currently are required to pay an annual license fee based on the number of games they offer. In addition, casinos, like all private companies, pay income tax on their earnings. Unlike the United States, England imposes no income tax on gambling winnings (except in the case of persons whose primary source of income is gambling). An excise tax also is imposed on slot machines and other gaming machines and on bingo operations.

In Nevada, the agency responsible for promulgating casino regulations also is responsible for collecting casino license fees and taxes. In Great Britain, these two functions--regulation and taxation--are totally separate. The Gaming Board is concerned only with the social consequences of its decisions; it has no interest in increasing tax revenues for the government.

Restriction of Casino Activity. A great deal of effort is devoted to limiting the nature and extent of casino gambling that may take place. Numerous statutory precautions are employed to insure that the demand for this form of gambling remains "unstimulated."

One of the primary restrictions on casino operations is the membership club format required by law. Only membership clubs are licensed to provide casino gambling. All persons desiring to use casino facilities must be club members or bona fide guests of members. In order to become a club member, it is necessary to make an application on the premises of the club at least 48 hours in advance of the time one desires to gamble. Individuals who already are members must make known their intent to gamble at least 48 hours in advance. The purpose of this rule is to prevent impulse gambling, and while it is intended primarily to protect the indigenous population, it applies equally to foreign visitors. The membership club format also allow the imposition of certain restrictions such as dress codes and admission fees.

Another important restriction involves hours of operation: British casinos may only remain open between 2 p.m. and 4 a.m. Gaming officials believe that this provision helps reduce overindulgence by people who may be too tired to think and act logically after prolonged hours at the gaming tables. British law also includes a proscription against the serving of alcoholic beverages within the gaming area and a prohibition against live entertainment on the casino premises. Restaurants may be located adjacent to casino clubs but not within the clubs themselves. Each casino is allowed only two slot machines. This "no-frills" environment is seen as still another precaution against impulsive or artificially stimulated gambling.

In an effort to restrict casino profits and to give the casino customer at least a reasonable, if not an even, chance of winning against the house, regulations are imposed on the manner in which each game may be conducted. One of these provisions is the elimination of the double 0 (00) in roulette. Other restrictions govern the type of bets that may be made in such games as blackjack and craps.

Two mainstays of gambling in Nevada are credit betting and junkets. Both are prohibited in England. A person must use cash or a personal check to obtain chips or gaming tokens and all checks held by the casino must be deposited in a bank within 48 hours. A person may not redeem his check at the end of an evening, and cannot write one check consolidating the total amount of outstanding checks. British gaming officials believe that these regulations serve to deter impulse gambling by requiring customers to have sufficient funds on hand before they can gamble. The system is also believed

to help prevent the use of extraordinary debt collection methods. Since checks are a legally enforceable instrument, there is no need to rely upon collection agencies.

Another well-established practice in Nevada casinos is tipping. In English casinos, tipping is prohibited both to insure that all customers will be treated equally by casino employees and as a means of restricting casino profits by insuring that casinos pay their employees competitive salaries.

A final restriction on casino gambling in England is the strict prohibition of advertising. British casinos may advertise their existence only once--when they first open for business. After that, all advertising within the boundaries of Great Britain is prohibited. Casinos are permitted, however, to advertise outside their own country.

Bingo Clubs

With the advent of television, there was a gradual decline in the popularity of the cinema in Great Britain. As a result, many movie theaters were forced either to close or to devise different uses for their premises. Following the Gaming Act, 1960, numerous movie theater owners converted their facilities into huge bingo halls and began employing a variety of methods to increase their profits. As stated above, these methods included the advertising of nonexistent prizes and the installment of slot machines and other amusement machines to stimulate participation.

While not limiting the overall number of bingo clubs in existence (currently there are almost 2,000), the 1968 Gaming Act imposed strict regulations governing their operation. Bingo customers are charged an entrance fee but all actual gaming stakes, minus taxes, must be returned to winning players. The amount of money taken in through the sale of bingo cards as well as the prize money for each game must be prominently displayed. Finally, slot machines and other amusement devices are banned from the premises of bingo halls.

CASINO GAMBLING IN THE BAHAMAS

Casino gaming in the Bahamas is viewed as a tourist attraction. In fact, only tourists are allowed to gamble in the Bahamas; resident Bahamians may not.

The present system is based on legislation passed in 1969 providing for a three-member Gaming Board with the power to grant casino licenses. Apart from the exclusion of residents and certain other restrictions, the Bahamian regulations are more like those of Nevada than of Great Britain.

Live entertainment is permitted in casinos; the shows presented, however, must be of a "high standard"--a quality that is determined arbitrarily by the Gaming Board. Although tipping of casino employees is allowed, the tips are pooled and divided among employees, with no share going to the casino operators. Employees of the casino, as well as players, must be 21 or older and are issued permits which must be renewed on a yearly basis.

In the Bahamas, gambling on credit is permitted, and copies of all markers or IOU's are made available to the Gaming Board. Despite the fact that markers are not collectable in Bahamian courts, taxes are assessed the operators on the total amount outstanding, whether or not the total is ultimately collected. As in Great Britain, however, no income tax is levied upon gambling winnings.

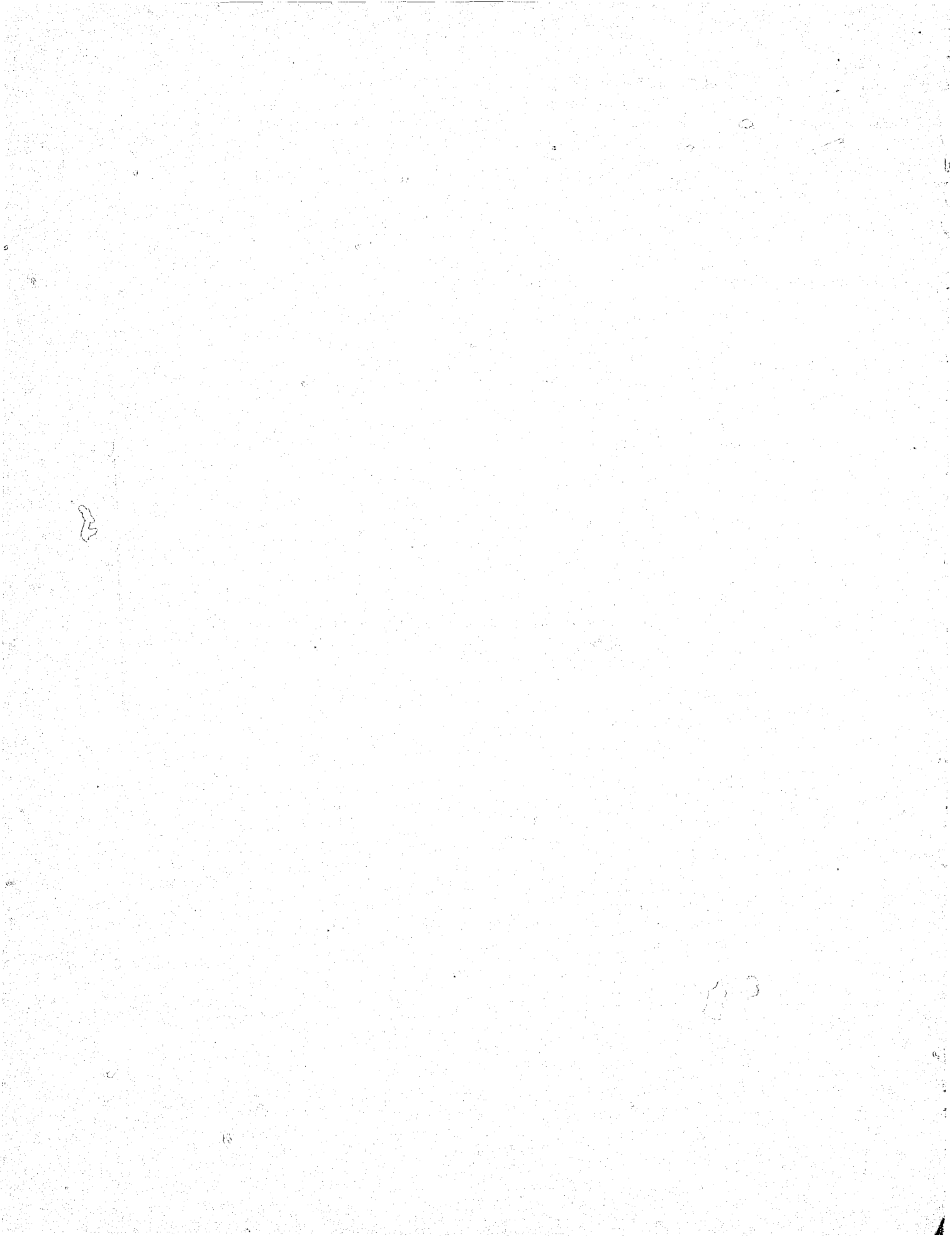
Slot machines are permitted in Bahamian casinos, with a specific number allocated to each site; these allocations can only be increased by permission of the Gaming Board. Slot machines are the only form of electronic gaming equipment permitted in the casinos.

Junkets provide a large source of business in the Bahamas and are encouraged. Most of these groups come from the Northeastern United States and Canada. The Gaming Board conducts background investigations of all junket organizers.

Like Nevada casinos, Bahamian casinos are open for business 24 hours a day, 7 days a week.

* * *

(Also present during the hearings were: Victor Lowmes, President, Playboy International; Victor Weake, representative of Rank Industries of Great Britain; James Gurley, Director General, Audit Directorate of Revenue of Canada; George Fullarton, Director, Audit Operations of Revenue of Canada; Frank Scott, President, Union Plaza Hotel, Las Vegas; Frank Johnson, Executive Vice President, Hilton Hotels; Chalres Munson, Vice President, Harrah's, Inc.; Harry Wald, Executive Vice President, Caesars World; William Weinberger, President, Caesars Palace; and Al Benedict, President, MGM Grand Hotel.)



APPENDIX A: HEARING TRANSCRIPTS

Below is a list of transcripts of hearings held by the Commission on the Review of the National Policy Toward Gambling. These transcripts are available, in papercopy and microfiche, from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. When ordering, please refer to the Source Code GAMBC and, where available, the NTIS Accession Number.

<u>Subject and Date</u>	<u>Accession No.</u>	<u>Prices</u>
Lotteries April 3, 1974	PB253621	Papercopy: \$8.00 Microfiche: \$2.25
Justice and IRS May 15, 1974	PB253610	PC: \$6.75 MF: \$2.25
FBI, FCC, and Postal June 26, 1974	PB253643	PC: \$6.75 MF: \$2.25
Lotteries, Dogfighting November 19-20, 1974	PB253647	PC: \$11.00 MF: \$2.25
Lottery Opposition (Legalization of Gambling) December 4-5, 1974	PB243699	PC: \$9.75 MF: \$2.25
Gambling Law Enforcement and Organized Crime March 9-11, 1975		
Off-Track Betting May 6-7, 1975		
Sports Betting February 19-20, 1975	PB253644	PC: \$10.75 MF: \$2.25
Parimutuel Horseracing March 4-5, 1975	PB253696	PC: \$16.25 MR: \$2.25
Philadelphia, Pa. (Law Enforcement) May 28-29, 1975	PB253698	PC: \$16.25 MR: \$2.25
Detroit, Michigan (Law Enforcement) May 28-29, 1975		

<u>Subject and Data</u>	<u>Accession No.</u>	<u>Prices</u>
Nevada (and Phoenix) Casinos and Law Enforcement August 18-22, 1975	PB253674	PC: \$23.75 MF: \$2.25
Chicago, Illinois (Law Enforcement) September 23-24, 1975	PB253672	PC: \$18.75 MF: \$2.25
Miami, Florida (Law Enforcement, Parimutuel Wagering, Casinos) November 24-25, 1975	PB253620	PC: \$10.75 MR: \$2.25
Boston, Mass. (Law Enforcement, Organized Crime) April 9-11, 1975	PB253695	PC: \$16.25 MR: \$2.25
Cleveland, Ohio (Law Enforcement) January 16, 1976		
Federal agencies May 10-11, 1976		
Gambling Survey Results June 23, 1976		
Gambling in Great Britain and the Bahamas September 20-23, 1976		

APPENDIX B: CASINO TOURS

While in Las Vegas, Commission members and staff toured five casinos:

- Union Plaza
- Golden Nugget
- Hilton Hotel
- Caesars Palace
- MGM Grand Hotel

Appendix B highlights these tours.

UNION PLAZA CASINO TOUR

Spokesman for casino: Frank E. Scott, President and Chairman of the Board, Chief Executive Office of the stock corporation that owns and operates the Union Plaza Hotel.

The casino cage is the financial hub of the casino operation. The cage at the Union Plaza consists of \$4 million--\$1 million in casino chips, \$500,000 in front, \$200,000 in coins, and \$500,000 in credit markers. The casino operation is similar to that of a commercial bank, but casinos are subject to much more extensive review and examination than banks, and the controls are stronger. The casino cage operation is reviewed by city, county, State, and Federal agencies.

The count room at the Union Plaza has glass walls, and anyone can observe what is going on inside at all times. All the money taken in through the gaming operations at all of the tables is brought into the count room and maintained in locked boxes. Each box has three locks. All of the money is counted in public view. A security guard watches the counting operation closely.

The Union Plaza Hotel will have the first race and sports book operation authorized in a major casino. State law was recently amended to allow this operation in casinos.

The casino has an "eye in the sky," a room from which all action taking place in the casino is monitored both by cameras and by observers.

A "21" table starts out with a bank consisting primarily of casino chips, and as more chips are needed they are delivered from the cage by a "bill slip." The bill slip requires four signatures to verify that the money taken from the cage is the exact amount that reached the table. If the table wins often and its chips overflow a tray, a similar document called a credit slip is issued and the excess chips are returned to the cage. A running tally is kept of the revenue generated by each table.

GOLDEN NUGGET CASINO TOUR

Spokesman for the casino: Steven Wynn, President and Chairman of the Board of the Golden Nugget

Twice a week money is collected from slot machines. The team that collects the slot machine money is composed of individuals who are to a certain extent regulated by the Nevada Gaming Commission. A member from the casino's slot department supervises the count. Personnel from the casino's Auditor's Office and General Services and from the Security Department also participate. They all are in different income brackets, which is supposed to discourage collusion. The slot machine money is then weighed as part of a sophisticated mechanized counting procedure. The whole operation can be viewed from the "eye in the sky."

Security guards and representatives of the casino organization remove the boxes containing each shift's action from each gaming table and take them to the counting room, where they are locked in wire baskets until counting time. Since there are no audit trails in the count room, extreme security precautions are taken to prevent errors or wrongdoing. Personnel who perform the counting operation are carefully selected. Money and chips are visible to cameras at all times. Chips from other casinos are counted, sorted, and then returned to the various other casinos.

HILTON HOTEL CASINO TOUR

Spokesmen for the casino: Barron Hilton, President and Owner of the Hilton Hotel; Frank Johnson, Executive Vice President, Hilton Hotel; Leon Samberg, In-House Television Expert, Hilton Hotel.

There is a network of approximately 40 cameras throughout the casino complex. An additional 20 cameras are located throughout the Flamingo complex (also owned by the Hilton chain), which can be monitored from the Hilton. Each camera is equipped with a remote control zoom lens as well as remote control hand-held units that permit inspection of many different areas. The cameras are infrared sensitive and can be used in the dark. They can zoom in very close to any of the gaming tables and other locations. Videotape is used for later viewing. A slow motion adjustment permits reviewers to analyze actual plays closely. In case wrongdoing is discovered, the tapes can be presented as evidence in court. Five persons have been convicted of cheating since the camera equipment was installed. The cameras act as a deterrent against cheating.

The credit investigation system at the Hilton is very sophisticated. The hotel keeps a file of all persons who have ever requested credit. The card on each individual contains such information as junket trip history, how markers have been played, whether markers have been paid at the table, whether the individual left owing money, how he is rated as a player, and his credit limit. These players are rated each time they play by two executives in the pit.

CAESARS PALACE CASINO TOUR

Spokesman for the casino; Steven Hyde, Vice President, Caesars Palace

The casino operates under four divisions of management: The director of casino operations who is responsible for employment; the casino host who is responsible for marketing; the treasurer's and comptroller's office; and the corporate security officer, who is employed by Caesars World, the parent company.

Fifty percent of the play at Caesars Palace depends on credit action. Credit markers consist of four stubs, which are subdivided into six stubs each. At any one time it is possible to account for all the markers, what has happened to them, and how the transactions were conducted. The casino plans to install a computer that will help eliminate some of the paperwork involved in credit marker transactions. The credit files contain approximately 70,000 active cards and an additional 50,000 inactive cards. The casinos have a central credit bureau from which they can obtain information about players who have also frequented other casinos. Only the casinos can use the credit bureau.

An inventory is taken three times a day of all the casino transactions that have occurred during the preceding shift.

MGM GRAND HOTEL CASINO TOUR

Spokesman for the casino: Mr. Benninger, President, MGM Grand Hotel and Mr. Benedict, Chairman of the Board, MGM Grand Hotel

Presently nongaming activities at the hotel equal or exceed gaming operations in revenue and profit. Gaming revenue accounts for approximately 50 percent of the hotel's business. The hotel is really involved in five different businesses: food, liquor, entertainment, gaming, and rooming. Las Vegas has a reputation around the world as a place that offers fun and entertainment at reasonable prices. The MGM Grand Hotel cost \$125 million to complete. Many people were skeptical when the corporation announced plans to construct a 2,000-room hotel in Las Vegas; they thought the market was saturated, but these fears proved unfounded.

The average stay of the visitor to Las Vegas is 2 1/2 to 3 days. People normally gamble only 2 to 3 hours a day and thus require many other activities to occupy their time. The hotel thus offers two show-rooms instead of one so that people can see a different show each night of their stay. It also offers jai alai matches and a large shopping center.

The hotel does not plan to expand its facilities because it has found that such expansion often is detrimental to efficiency.

The hotel employs 4,500 people. In its first year, the hotel had more than \$30 million in convention bookings, and an occupancy rate of 87.5 percent. The hotel was in the black the first month after it opened, which is unusual for a new venture. Currently, the hotel's combined gross revenue is approximately \$13 million a month. The yearly handle exceeds \$300 million.

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