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Easy Money

the Task Force on Legalized Gambling
by the Fund for the City of New York
Twentieth Century Fund

and Paper by David Beale
and Clifford Goldman

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Easy Money

Report of the Task Force on Legalized Gambling
sponsored by the Fund for the City of New York
and the Twentieth Century Fund

Background Paper by David Beale
and Clifford Goldman



The Twentieth Century Fund/New York/1974

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Foreword

In November 1972, the Fund for the City of New York published *Legal Gambling in New York: An Inquiry into Numbers and Sports Betting*. This study was well received and coincided with exploratory work being done on the same subject at approximately the same time by the Twentieth Century Fund. Both foundations thought it a good idea jointly to support a further inquiry into legalized gambling, building on the earlier work of both foundations and extending beyond the reach of the New York study to take a national rather than a local perspective. It was our expectation that, by directing the attention of a panel of distinguished and sensitive people to the subject over a period of time and supporting them with knowledgeable staff, we could help to shed some light on this complex and timely subject and strip away some of the mythology surrounding it. We think the resulting Report and background paper meet that expectation and will serve as a valuable guide to the basic facts and the troublesome questions that must be considered as public decisions are made in this area.

The Task Force Report and the background paper were prepared with the support of the Fund for the City of New York and the Twentieth Century Fund, but the Report is the product of the independent Task Force and reflects its views. The background paper was prepared by

Clifford Goldman and David Beale, who served as rapporteurs for the Task Force and subsequently were appointed to positions with the State of New Jersey. They were assisted in preparation of the paper by another Task Force consultant, Jess Marcum. The Directors and Trustees of the two foundations have not, as a group or individually, been asked to endorse the conclusions or recommendations of either document. We are grateful to the members of the Task Force for giving so much time and thought to their assignment.

Gregory R. Farrell, EXECUTIVE DIRECTOR
Fund for the City of New York
October 1974

M. J. Rossant, DIRECTOR
The Twentieth Century Fund
October 1974

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Report of the Task Force

Summary of Findings and Recommendations

The members of the Task Force have a variety of different backgrounds and will discuss some of the role of government in education. Some members are in favor of a more active role for government in education. In particular, an emphasis on increasing the level of spending on education is not considered a priority. However, the amount of spending should be expanded for some higher levels of education, particularly at the postsecondary level. Our findings based on the evidence we reviewed follow in summary form.

1. There is no clear evidence for the impact of government spending on the availability of schooling and on the level of government expenditure of revenue for state operations. Although higher and other higher spending levels are possible, more spending on the state level would not be large and may be offset by other state and federal government expenditures. (Appendix 1)

2. A significant finding is that the level of government spending on education is not directly related to the level of government revenue.

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Summary of Findings and Recommendations

The members of the Task Force have a variety of different experiences and hold different views of the role of government in gambling. Consequently, we did not reach unanimous agreement on the issues that we considered. In particular, we came to no consensus on the basic question of whether or not commercial gambling is immoral. However, we shared a common interest in separating fact from fiction with regard to the legalization of gambling. Our findings, based on the evidence, are presented below in summary form:

- *There is no justification for the highly publicized expectation that the legalization of gambling will provide an important new source of revenue for state treasuries.* Although lotteries and other legalized gambling games can produce some revenue for the states, the amounts would not be large and they could be attained only through active and aggressive government promotion of legalized gambling.
- *Although legalization of gambling may be a useful weapon in combating illegal gambling activity in some circumstances, it is no sub-*

stitute for a broad and sustained assault on all aspects of organized crime. There is little evidence that legalized gambling will be able to compete effectively with illegal games to deprive them of much or all of their revenue; even if they did, organized crime would still have considerable capacity to engage in other illegal activities.

● *Legalized gambling probably cannot simultaneously serve the objectives of both maximum gains in revenues and improved law enforcement.* A policy designed solely to maximize public revenue from gambling may conflict with other policies in the public interest.

● *The law enforcement benefits of legalization are more important than the revenue potential.* But even though legalization of certain specific games may make a noticeable dent in the volume of illegal gambling, legalization of most forms of gambling — unless accompanied by greatly increased law enforcement efforts — will not eliminate illegal gambling operations.

● *The federal government should not engage directly in the gambling business.* The Task Force is unanimous in opposing the initiating of federal gambling activities, such as a lottery. Fundamentally, any direct governmental role in gambling — city, state, or federal — raises serious questions about whether such activities are proper and appropriate. State and local governments are involved in gambling operations at present, but serious reconsideration of governmental participation in the gambling business is needed. If it is determined that some state or local gambling will be legalized for revenue or law enforcement purposes, federal and state tax laws should be amended so that taxation does not penalize legal games in such a way that they cannot compete against their illegal counterparts.

Findings and Recommendations

current legalized gambling boom is now a decade old. It appears to be following the established historical pattern of government policy on gambling, which, ever since the founding of the Republic, has oscillated between permissiveness and prohibition. Today, in many states across the nation, permissiveness is again in vogue. The *de facto* minimalization of illegal gambling has accompanied steady and accelerating legalization of selected games that parody, but rarely endanger, illegal counterparts.* The result is a peaceful, yet potentially dangerous, coexistence. Illegal gambling has left its black market existence flourish in the grey area between formal disapproval and cavalier acceptance. It is acquiring respectability from the establishment of

Throughout this Report, the Task Force uses the term "legalization" to refer to government gambling operations or to privately run gambling operations subject to regulation and taxes. The term "decriminalization" refers to repeal of current laws that now make certain gambling activities illegal; "*de facto* decriminalization" refers to nonenforcement of laws against gambling.

legally sanctioned games—first racetracks, then lotteries, off-track betting, and soon perhaps state-operated casinos. Legal gambling raises modest amounts of revenue for government, but it also introduces new players to the thrill of betting, and it has not, by and large, challenged the supremacy of the illegal gambling industry with its great competitive advantages and its unsavory by-products. Although some reports suggest that illegal gambling has increased with the advent of legalization, the evidence on this score is not clear. But it is clear that organized crime continues to thrive, that corrupted law enforcement agencies remain corrupt, and that the criminal justice system is subject to widespread abuse. The nation seems to be moving toward an unhappy compromise—a future in which legal games that create new problems coexist with illegal operations whose attendant problems remain unsolved.

This Task Force was assembled to examine the major issues involving the role of government in gambling, both legal and illegal. Like the public at large, our views differed about the morality of commercial, as opposed to strictly social, gambling. Although we had the benefit of the background paper accompanying this Report as well as the expertise of a number of consultants, we continue to hold diverse views. While all of us place a high value on individual freedom, we candidly admit that we were in conflict over the claims of individual rights and the counterclaims of society at large. As a result of our frequently heated but always friendly debates, we decided against attempting to reach agreement on the moral issues posed by gambling in our democratic society. Rather, we sought to weigh the available evidence and to arrive at a consensus on what is both practical and desirable. Given our differences, that exercise proved difficult.

At present, state governments are being tempted by proposals to use legalization of gambling as a means of raising revenues and spurring the economic development of depressed tourist areas. The proponents of legalized gambling claim that it also will draw customers away from illegal games and improve law enforcement by reducing corruption and helping to eradicate organized crime. Unfortunately, most of these assumptions do not appear to be justified.

This Task Force has studied legal gambling in a broad context. It has deliberated about many issues involved in the rush of financially pressed state governments to tap the potential revenue offered by gambling. It has sought to determine the policy objectives legalization may serve. It has analyzed estimates of the revenues that may be attained from state-owned or state-regulated gambling games. It has asked not

only whether legalization of gambling is desirable for purposes other than generating revenue but also whether legalized gambling is an efficient or fair form of taxation. The Task Force also has considered the argument that legal games, by offering strong competition to syndicate-controlled gambling, can be shaped into an effective weapon against organized crime and official corruption. This consideration led to an effort to determine how — and, more important, whether — legal games could capture the profits of illegal games and reduce the amounts of graft flowing to some policemen and politicians.

The Task Force examined the social risks involved in legalization: the possibility that compulsive gambling would spread, undermining work habits and thus hurting local economies. It also considered the role of government in a mature democracy, seeking to judge just how far government ought to go either in protecting citizens from their own preferences or in urging them to invest personal income in games of chance.

Although the Task Force ranged far in its deliberations, it did not delve deeply into moral or psychological questions. A deeper examination would have dealt with such questions as why society tends to condemn gambling and whether compulsive gambling is more reprehensible than other, legal, compulsive activities.

Gambling, a complex social institution, appears in many forms, is operated by many types of agents, and appeals to different economic groups in varying degrees. The Task Force found that the scope and nature of gambling activity depends, to a large extent, on local conditions, particularly on the peculiar characteristics of the people residing in a community. Thus what may be wise policy in one state or under one set of conditions may well be the wrong policy elsewhere.

Yet it is vital that the public consider legalization of gambling in a broad framework based on a thorough analysis of both benefits and risks. The Task Force has concentrated on providing such a framework in order to inform and carry forward public debate and public policy. Aware of the momentum of the current trend toward legalization, it has not sought to propose ideal solutions. But it is concerned lest legalized gambling spread as a result of questionable or even erroneous assumptions about its value in generating revenues or in combating corruption. The Task Force also is concerned about the moral issues raised by governmental involvement in operating or regulating gambling. Against this background, it has attempted to separate the facts from the myths about gambling, and then to go as far as our knowledge allows to frame constructive and realistic recommendations in the public interest.

Legal Gambling: Its Revenue Potential

Many politicians hope that legalized gambling will turn out to be a panacea for the ills of the public treasury. Despite a current and temporary improvement in the budgets of most states, state expenditures, unlike the traditional sources of state revenue, have been increasing significantly. This trend can be expected to continue. A growing number of states have now instituted lottery games as a means of tapping new and seemingly large reserves of "voluntary" public income: the prognosis is for a dozen more states to enter the lottery business in the next five years. Soon, the numbers — or "policy" — game, a popular form of illegal lottery, may be publicly administered in several states in the northeast. In addition, off-track betting, which began in New York in 1971, will soon be operating in Connecticut and is attracting the attention of many other revenue-short states. Betting on sports events, the most important form of illegal gambling in dollar terms, is being seriously examined by study commissions in three states.

*Nevertheless, the Task Force found no justification for the highly publicized assertions of a number of state government officials that legalized gambling will be an important new source of substantial revenue for state treasuries. We have determined that neither the early financial returns from the lotteries and from off-track betting nor the economics of the illegal gambling industry support the optimistic assumptions that are now so widespread. Even allowing for a wide margin of error and for differences in the volume of activity from one state to another, the Task Force is convinced that total revenues from comprehensive legalization of gambling would make only a relatively small contribution to state treasuries. Although legalization might expand the volume of gambling in the nation substantially, we do not believe that this expansion would be great enough to alter significantly our conclusion that the revenue yield would be minor.**

According to the best estimates available, Americans wager between \$30 and \$40 billion annually on the major illegal games — numbers, sports betting, off-track horse race betting, and organized casino games. Of

* Percy Sutton states:

I am of the belief that there is a great potential for the raising of large revenues from legalized gambling. No government body has, as of yet, experimented with the legalization of the totality of *sports betting, lottery, numbers, casino gambling*, and similar ventures. Until such an experiment is made, there seems not sufficient evidence that we can conclude that the revenue from such endeavors would be minimal.

that amount, the illegal operators retain approximately \$3 to \$4 billion before expenses — a gross profit well below that commonly supposed. Legal games seeking to capture some or all of the revenues generated by illegal games will face severe competitive disadvantages. Illegal winnings are not reported to the Internal Revenue Service. Illegal operators can offer bettors confidentiality, credit, telephone service, and other amenities. To offset these advantages and to compete successfully, legal games must offer bigger prizes, experience higher operating costs, and take lower profits. In the unlikely event that illegal gambling disappeared, legalization would work great changes in our society, but the amount of public revenue it produced would be, according to our calculations, less than 1 percent of total government revenues.

Another question that must be asked about the revenue potential of gambling is, who pays? According to some observers, gambling is highly regressive in its impact, affecting the poor proportionately more than the rich. If that were the case, officials who propose to legalize gambling in order to produce revenue for government would in fact be merely advocating another form of regressive taxation. The evidence available to the Task Force was inconclusive on this score. Taxes on some forms of gambling, though not necessarily on all, may well be regressive.

Finally, the question has been raised as to whether gambling should be legalized in order to raise state revenues, or whether it should be regarded as an amusement or entertainment that the state should control quite apart from its revenue potential. The costs of operating and promoting gambling absorb a large percentage of the income that a given game may raise; hence gambling is an inefficient way to raise public funds compared to the low cost of collecting income, real estate, and other taxes. But if government control of gambling is seen as a public amenity, akin to operating a swimming pool, park, or museum, then the costs of its operations will necessarily be far higher than the costs of straight tax collection without being an inefficient way of raising money. It also is agreed that legalized gambling may produce social benefits in the form of jobs for the handicapped, veterans, and members of minority groups who are not readily employable.

After considering all the evidence, the Task Force believes that legalization of gambling will produce relatively small amounts of revenue and will raise it from the wrong people in the wrong way. We recognize that illegal gambling is big business in the United States, but it also is an exceedingly complex and sophisticated business that legalized gambling is unlikely to capture. Thus revenues derived from

legalized gambling will be minor when compared to total revenues as well as in comparison with the profits from illegal operations.

A state embarking on legalization has two broad choices: it can regulate and tax private gambling operations, or it can enter the business on its own. For some forms of gambling, particularly for sports book-making, government operation would be difficult, largely because of the inherent financial risks and the entrepreneurial skills required to run such enterprises efficiently. But if it chooses to license operations, the government must curb its demand for high taxes in order to give private licensees a fair share of the relatively thin profit margins that prevail in illegal games. In short, government would have to split the profits and, more than that, take a minor share. Otherwise, licensees would be handicapped in competing against illegal competitors, with a corresponding loss of revenue to the government.

In either case, a state government engaging in legalizing gambling requires a bureaucracy that, once established, acquires a life of its own. In addition to assuring the continuation of its own jobs and responsibilities, the bureaucracy will look for expansion of its jurisdiction—thus placing excessive and misplaced reliance on gambling activities for revenue production instead of developing more effective and more equitable alternative sources of revenue.

In some cases, legalization of gambling will produce varying amounts of revenue under different methods of operation. For example, government-owned and -operated casinos are likely to be less efficient in raising revenues than private casinos, because publicly owned casinos cannot offer the credit and other amenities available in privately owned enterprises. In fact, the government's revenue from a tax on the profits of private casinos might well exceed total profits from a state-owned operation. Yet privately owned casinos are more vulnerable to criminal influence. *Thus, a policy designed to maximize public revenue from gambling may conflict with other policies in the public interest.* Government must balance the greater direct revenue provided by private operations as well as the greater potential for rehabilitation of depressed resort areas and increased tourism against the greater risks of encouraging and enriching criminal elements.

Although this analysis has indicated the questionable revenue potential of legalized gambling, there may be better and more compelling reasons either for or against legalized gambling. Questions of gambling and law enforcement, for example, should perhaps weigh more heavily than revenue production in a community's decision on legalization of a particular form of gambling.

Legal Gambling: Its Role in Law Enforcement

Many advocates of legalization contend that the present anti-gambling laws serve to protect criminals in their enjoyment of a lucrative gambling monopoly. Illegal earnings from gambling, they assert, are used to underwrite other illicit activities — narcotics, loan sharking, hijacking, and prostitution. Illegal gambling is also singled out as both a major reason and a major resource for police graft and official corruption. Only fair competition, according to many of those who advocate it, can break the hold of organized crime on betting, reducing both profits and the availability of official protection.

The Task Force has carefully considered the evidence in support of these arguments and believes that legalization is not an effective weapon against organized crime.* We have been impressed, over and over again, with the influence of local operations on gambling. Operations vary from city to city, and sometimes from neighborhood to neighborhood. In our investigation, we found that illegal gambling is not always controlled by large criminal syndicates. In some regions, gambling is an independent enterprise; in others, it is tied, financially and sometimes administratively, to other underworld activities; in still others, it is controlled by one of several large criminal organizations. The table below gives the Justice Department's estimate of the percentage of illegal gambling run by organized crime in different sections of the nation.

PERCENTAGE SHARE OF GAMBLING CONTROLLED BY ORGANIZED CRIME*

Location	Percentage
Far West	29.2
Midwest	47.4
Northeast	53.2
Southeast	35.7
Southwest	2.0

* Source: U.S. Department of Justice, May 1974.

The term "organized crime" is used in the Task Force Report to refer only to legal organizations linked with what is often called the syndicate, la Cosa Nostra, or the Mafia. These organizations are generally also heavily involved in their criminal activities, including loan sharking and narcotics. The Task Force realizes, as the table on this page indicates, that other organizations are involved in illegal gambling and that many of these organizations are purely local and may have no ties to any other criminal activity. These other organizations are included in the discussion of organized crime only if referred to specifically.

It is important to make a distinction between areas where illegal gambling is a serious and urgent problem for law enforcement and areas where it is not. An area characterized by a high volume of illegal gambling run by members of the syndicate who are paying large sums for corruption of law enforcement officials has a serious gambling-related law enforcement problem. (Undeniably, illegal gambling encourages other criminal activity.)

Although the existence of any illegal activity creates law enforcement problems, an area with relatively little illegal gambling activity, run by purely local individuals with no connections to other criminal activities, is likely to have relatively less serious gambling-related law enforcement problems.

The Task Force believes that organized crime, even if deprived of its revenues from gambling, would still have considerable capacity to engage in other illegal activities. A policy of selective legalization, primarily designed to drive organized crime out of the gambling market rather than to raise revenues, could reduce the income and disrupt the operation of some crime syndicates, at least temporarily. But organized crime, which demonstrated its ability to survive and grow after the repeal of prohibition, is both resilient and resourceful. There is little reason to believe that legalization of gambling would bring about a substantial diminution in the activities of organized crime. Accordingly, the Task Force believes that, while legalization of gambling may be useful in combating illegal gambling activity in some circumstances, it is no substitute for a broad and sustained assault on all aspects of organized crime.

Our analysis indicates that illegal gambling profits are smaller than they are generally believed to be but that they are nonetheless a very significant source of income for organized crime in some areas of the nation. Many law enforcement officials take the view that gambling revenues underwrite other more episodic activities, such as hijacking and traffic in narcotics. Other officials — a minority — hold that gambling is merely one of a number of major criminal activities. But there is general agreement that gambling is a regular source of income for organized crime.

The revenue derived from illegal gambling is a principal source of police graft and political corruption. Illegal gambling operators regularly earmark substantial sums to bribe and suborn law enforcement officials. Like the cost of advertising for a legitimate enterprise, bribery can be considered a major recurring business expense. In some cities,

corruption is pervasive, stretching from weekly payoffs for patrolmen to large political contributions for the election or appointment of judges. But gambling is not the sole source of official corruption, and legalization will not eliminate all graft. What is more, experience in this country and abroad demonstrates that the regulatory processes involved in legalized gambling are themselves subject to corruption.

The Task Force has examined the proposition that publicly operated games, if coordinated with law enforcement activities, can help drive organized crime out of the gambling business. Here again, experience suggests that, although legal games can reduce the profits of their illegal counterparts by offering higher prizes at equal convenience to bettors, it will be difficult to dislodge illegal operations simply by government competition. Off-track betting in New York has failed to do so, mainly because it does not offer significantly higher payouts or many of the amenities offered by illegal bookmakers. The same is true of daily state lotteries; they do not offer more attractive odds than illegal numbers games, and unlike the illegal games, they do not give players the satisfaction of being able to select their own numbers.

If legal games are made competitive, they may offer a useful outlet for the public's apparently irrepressible urge to gamble. But without a wider law enforcement commitment, entailing more arrests, more convictions, and harsher sentences for illegal operators, legal games are unlikely to drive out their illicit counterparts. Of course, increased law enforcement efforts are possible now, without legalizing gambling. The Task Force has not found that legalizing gambling has been accompanied by more aggressive efforts to enforce the law.

There is a further weakness in the highly publicized dual objectives — revenue production and law enforcement — of the current wave of legalization. The objectives of maximum revenues and maximum law enforcement are not entirely compatible. A legal game may further one or the other objective but seldom both.

Legalization is an effective law enforcement strategy only to the extent that legal games draw customers away from existing illegal games.* This objective requires a high prize structure, which means lower profits or revenues; otherwise, the game may attract novice players, but it will not draw established customers away from illegal games. Clearly, such a game is no solution for law enforcement problems. The tendency of

* Jerome Cavanagh comments:

I believe that a well-financed legal game can compete effectively with an illegal game and make a substantial impact on the illegal operation.

governments to create new low prize games such as daily lotteries, while permitting the *de facto* decriminalization of illegal games, has demonstrable defects — limited revenues, continued illegality, continued police payoffs, and increased hypocrisy.

The Task Force believes that the law enforcement benefits of legalization are more important than the revenue potential. For certain games there exist forms of legalization that may make a noticeable dent in the volume of illegal gambling. However, for most forms of gambling, legalization — unless accompanied by greatly increased law enforcement efforts — will fail to drive out illegal operators.*

Gambling: Its Social Aspects

Many people have voiced concern that legalization of gambling will have undesirable social consequences. In addition to spokesmen for religious groups, a sizable number of public officials, psychologists, sociologists, and even some professional gamblers fear that the legal sanctioning of gambling in its various forms may lead large numbers of citizens to become obsessive gamblers, to the financial and psychological detriment of their families and communities as well as themselves.

Even though solid evidence about the nature and extent of obsessive gambling is unavailable, the Task Force believes that the promotion of some forms of betting carries social risks. There are, after all, many forms of gambling, each with a discrete social history and a distinct appeal. Analyses that lump all forms of betting together and ascribe identical characteristics to them are misleading. For instance, the enticement of some casino games, such as "craps" and blackjack, can be overwhelming to some players. In contrast, the appeal of other types of games, such as lotteries, numbers, and sports card betting, tends to be more limited.

There also is a certain class of player, described with great insight by Dostoevski, for whom gambling becomes obsessive and compulsive, turning into an uncontrollable yet ritualistic activity pursued with single-minded passion. The gambling compulsion may be so intense that those

* Percy Sutton states:

The Task Force Report seems to conclude that the law enforcement benefits of legalization of gambling are more important than the revenue potential. I am not convinced that this statement is valid, or ought to be the basis of our Report. It has always been, and remains, my view that there is no moral justification for the legalization of that which was heretofore illegal, on the grounds that unless it is legalized, law enforcement officials will fall prey to corruptive elements.

gripped by it are unable to carry on their normal activities. Whether gambling is legal or illegal is not critical to the compulsive gambler; he — or she — will seek out whatever game is available to fulfill the obsessive urge to bet.

A modest expansion in legalized gambling, particularly if confined to less stimulating forms of betting, probably will not lead to a rapid increase in excessive gambling that might involve undesirable social consequences. While legalization may lead to an increase in the number of compulsive gamblers, it will not, apparently, do so to an alarming extent. The true gambler, the player irresistibly drawn to large-scale betting, already has ample opportunities to bet, at least in and around the nation's major cities.

Some forms of gambling are associated with behavior patterns that, although falling short of compulsiveness, may be harmful. According to a number of observers in Nevada, a small but significant proportion of the adult population in the state's casino areas make wagers in amounts that dramatically alter their lives. Some experts think that legalized gambling, particularly sports betting, might, given the American obsession with professional sports, have a similar effect elsewhere. Again, there is not enough available evidence to make definitive predictions.

However, there seems to be a close correlation between certain types of gambling and seasonable increases in loan sharking, petty theft, and work absenteeism. Studies in communities with legal casinos or major racetracks suggest a clear connection between play and the incidence of petty crimes; in particular, loan sharking and the incidence of breaking and entering tend to rise markedly during the betting season. Yet other evidence, accumulated in this country and abroad, does not disclose serious economic disruption in jurisdictions that sanction legalized gambling.

Given the inflamed rhetoric that is based in large part on inadequate information, it is often difficult to distinguish fact from fancy. But it is instructive to examine the experience of other countries in assessing the social risks of gambling. Sports betting is legal in Sweden, Britain, and a number of other nations; off-track betting is permitted in Australia, Britain, New Zealand, France, and Japan; casino gambling is legal in Britain, France, Germany, Macao, Monte Carlo, Lebanon, and several states of the Caribbean. In Puerto Rico and the Bahamas, as well as some other countries, the laws try, unsuccessfully, to restrict gambling to tourists; in countries such as Australia, the government promotes gambling among its own citizens. Most countries in which gambling in one form or another is legalized have had to cope with social problems,

including job absenteeism. In the case of Britain, extensive decriminalization in 1960 was followed by new legislation in 1968 that reinstated restrictions on gambling, although Britain is still permissive by our standards. It is difficult, however, to draw inferences from cross-cultural comparisons of gambling experiences. The variations in the United States and abroad among state-run operations, techniques of regulation, and forms of decriminalization render all inferences suspect.

Legal Gambling: The Federal Role

The history of gambling excesses in the United States raises valid questions about the effects of the present trend toward legalization. Congress itself has expressed concern about the expanding volume and various forms of legalized gambling. Uncertain about the role that the federal government should play, what additional legislation, if any, is necessary, and what present laws should be amended or abolished, Congress set up a Commission on the Review of the National Policy Toward Gambling. The Commission, with eight congressional members and seven presidential appointees, is assembling a staff and beginning its research and hearings. Its report is expected at the end of 1976.

Although this Task Force has not undertaken the exhaustive study contemplated by the Commission, we believe that our research and recommendations should be of use, at least until the detailed evidence and investigations of the federal study group are made public. In particular, *we recommend that the federal government not play a direct role in the gambling business.* Some advocates of legalization have proposed that the federal government become involved, specifically by instituting a national lottery. The Task Force is unanimously opposed to the operation of lotteries or other gambling activities by the federal government. In our view, the revenues that might be gained from a national lottery could never be sufficient to offset the damage, tangible and intangible, that the promotion and operation of gambling activity would do to the national government. At a time when national institutions are subject to increasing public criticism and skepticism, we believe that a direct role in gambling would tend to demean the government.

The federal government, of course, has an indirect interest in gambling activity through the federal excise tax on gambling. This tax was expected to generate substantial revenue; it has not done so. It has merely served to discourage legal bookmaking. In Nevada, where off-track betting has been legal for years, bookmakers are subject to the excise tax. With other state governments moving toward legaliza-

tion, the Task Force believes that the federal excise tax on gambling is in need of revision. Accordingly, *we recommend that federal (as well as state) tax laws be reformulated, recognizing economic realities, so that taxation does not penalize legal games in such a way that they cannot compete against their illegal counterparts.*

The Task Force recommends that legalized gambling not be subject to specific taxation apart from regular and corporate income taxes. If a specific form of gambling has been legalized for reasons appropriate to the community, there is no justification for subjecting it to a higher federal tax than is imposed on other legal activities. For example, illegal sports betting takes out only 4.5 percent for costs and profits; legalized sports betting cannot compete with illegal betting unless the tax laws are modified.

We are mindful of the argument that gambling income should not be treated more favorably than ordinary income. But to the extent that legal games provide revenue to the states, the federal government should not discourage them since doing so is tantamount to encouraging participation in illegal games.

The third category of federal gambling statutes to be considered includes those which prevent the interstate transportation of gambling information, wagers, and gaming equipment and devices. Although we believe that these laws, too, have helped suppress illegal gambling, we feel that they should not be applied to legal gambling. Accordingly, *the Task Force recommends that federal laws be amended to allow interstate transportation of gambling information, wagers, and equipment between states where the games involved are legal.**

Legalized Gambling: The Specific Choices

After deciding upon general recommendations, the Task Force sought to apply them to specific games. Our general findings, however, do not easily lend themselves to the peculiarities of specific games in particular communities. The Task Force, reflecting the diversity of public opinion about the morality of gambling, realized it would be difficult to reach a consensus on whether commercial gambling should be sanctioned. Yet the legalization of gambling is either now taking place or already under consideration by so many state and local govern-

* The older federal excise tax and interstate transportation laws did not exempt states where gambling is legal. But federal legislation enacted since 1960, including the 1970 Organized Crime Control Act, regarding "persons constituting a gambling business," specifically requires that a violation of state law take place.

ments that we felt that we had both an obligation and a responsibility to examine various games in terms of our general findings. Thus we have reviewed the conditions and trends in a number of games, pointing out the various options that legislators and the public should consider in debating legalization.

In this connection, it may clarify matters to distinguish between social and professional gambling. We believe that all local laws dealing with social gambling should be eliminated. There is no economic or political justification for interference by government in any of the common forms of private, social gambling that, over the centuries, have been played and enjoyed by many people, rich as well as poor. Thus we recommend that social games (defined as gambling activity designed to facilitate social intercourse without providing a fixed, profitable return for its operators) be exempt from anti-gambling legislation.

The Task Force also has no objections to the legalization of gambling, especially bingo and raffles, operated for charitable purposes. Obviously, a strict legal definition is needed to distinguish games for the benefit of bona fide charities from games that purport to benefit charity but are organized and run for profit by professional operators. It is our belief that regulations, such as requiring registration and investigation by government agencies of both sponsoring charities and the operators of their gambling games, can be effective in minimizing the risks involved in this particular form of gambling.

Commercial gambling, which involves many issues of public policy, is much more difficult to deal with. We have sought for consistency in our approach, taking into account both our generalized recommendations and the specific features of various games. In addition, we have attempted to consider each game against the social and political background in which it operates. Accordingly, we have examined the extent of illegal activity in particular games, the nature of the involvement that they generate, and the public attitude toward them.

At present, public opinion, lured by the glowing promises of proponents of legalized gambling, seems to take an overly permissive attitude. Legalization is not a panacea for the fiscal problems of state and local government: it will not by itself do away with criminal involvement, nor will it eliminate official corruption. And although we favor the airing of any proposals for legalizing gambling, we strongly recommend that legalization, where it takes place, not be accompanied by promotion. Advertising of gambling is not only an unseemly but also an unnecessary activity for government to undertake. In order to be successful, a legal game must offer a larger return to a bettor than

an illegal game. If the game provides a larger return, then it will need no advertising. If public sentiment strongly favors a legalized game, and no strong reasons against legalization present themselves, advertising by legal operators is wasteful and unnecessary. We do not think that government should support promotional activities whose effect is either to create new customers or to increase the amount of money that is wagered by players who are now clients of illegal operators. Promotion of gambling games by government should therefore be prohibited. Of course, this prohibition in itself would severely restrict the situations in which it would appear useful for a state to operate a form of gambling.

Lotteries. Although state-operated lotteries have spearheaded the current wave of legalization, they have failed, in most cases, to produce the revenues expected by their proponents. Revenue predictions are hard to make, and lottery yields are quite sensitive to interstate competition and promotion. In fact, the relatively modest revenues they have generated to date are due, in large part, to steadily increasing advertising and promotional campaigns. Moreover, lotteries provide an extremely low payout ratio to participants without affecting the volume of illegal gambling.

Examination of the results of the lotteries established during the past ten years suggests that states offering inexpensive weekly tickets and streamlined procedures could expect, at the outset, to receive annual revenues of approximately \$10 per capita. This figure quickly falls, however, as the novelty wears off and competition increases. After a few years, revenues from such a lottery may decrease to as little as \$2 per capita, and that amount is sustained only by intensive promotion, advertising, and higher payouts — all of which serve to reduce the state's take from the total amount wagered.

The Task Force does not deny that participants enjoy lotteries, or that lotteries are a relatively harmless form of gambling, more of an idle — or passive — pursuit than an exciting and venturesome game. Lotteries as such are not likely to generate excessive or compulsive betting.

Any state considering introduction of lotteries would do well to examine the record of those engaged in them, especially in view of the inevitability of higher and higher promotion expenses as the novelty wears off. When the reality of earnings is balanced against the promises of lottery promoters, a much clearer choice emerges on whether it makes sense to establish a lottery. States that are now operating lotteries could also benefit from careful study of previous experiences in order

to avoid the frequently frantic searches for promotional devices in a futile effort to maintain sales that seem inevitably to decline.*

Numbers. Numbers is a large revenue source for organized crime; it is played by many poor people; and it provides a very low return to participants. Clearly, a strategy of legalization that would deprive organized crime of revenue and return a larger share of receipts to players deserves consideration by governments in those areas where the numbers game is popular.

But the operation of a legalized numbers game presents some problems. Numbers runners are important figures in the communities in which they operate. In many poor communities, numbers is an indigent business, a major source of employment for unskilled persons who live in them. So a legal game that did not employ local runners would be resented by the community. In addition, numbers has peculiar characteristics, especially the apparently spontaneous urge of players to make bets, that complicate the devising of a legal game. And because numbers provides such large revenues for illegal operators, protection of the legal game is likely to prove a major problem.

The Fund for the City of New York's 1972 report on numbers in New York City described in detail the operations of a legal game that would return 825 to 1 — the return on the illegal game is only 600 to 1 — on the standard bet. The Task Force believes that such a game might succeed in displacing the illegal game. Other approaches include legalizing the existing games or setting up competing games, perhaps privately run. None of these approaches can be effective unless the return to bettors is high enough to compete with illegal games, and therefore the revenue potential for the government is small. Instead of revenue, the important consideration is enforcement of the law — the denial to organized crime of numbers revenue as well as the elimination of a major source of bribery and corruption of law enforcement officers.

* Percy Sutton states:

It is my view, based upon the experience of lotteries both here in New York and in other countries, that the failing of such lotteries is perhaps to be found in the manner of their administration, rather than resulting from the nature of the activity. Two principal causes for failure of lotteries continue to be poor administration and the fact that winnings are not now exempt from both state and federal taxation, as they are in other jurisdictions. I would urge further experimentation with lotteries by the various states.

Jerome Cavanagh endorses this view.

In the opinion of the Task Force, those metropolitan areas where the numbers game is currently important and where a numbers-related law enforcement problem exists could experiment with operation of a legal numbers game with fair expectation of contributing to the law enforcement objective of driving out the illegal game. Of all forms of gambling, numbers appears to be the one most susceptible to this strategy. Such experiments either through a public corporation or through regulated entry of private operators could help other jurisdictions to determine the best approaches to legalization of numbers. These ventures will, however, be complicated by federal laws and regulations, such as those prohibiting the use of banks, mail, and broadcasting in support of the game. The situation in regard to numbers is a prime example of the Task Force's earlier finding that federal policies can unduly interfere with state and local government objectives.

On-track betting. Betting on horse races at the track is an established form of legal gambling in many states, but its legal status does not mean that it is free of problems. As a recreation, going out to the track is a source of pleasure and excitement to many people.

In addition to the pleasures of horse racing that have brought legal track betting to thirty-one states, a certain romantic mystique has grown up about it. Various expressed concerns about improving the breed and other abstract "sporting" notions have tended to give horse racing the appearance of something better than just gambling — something like the sport of kings.

This popularity has brought trouble to the tracks. Proliferation of racing schedules has served to reduce track attendance, and state demands for additional percentages of the handle have appeared to reduce revenues further. Moreover, the industry has expanded faster than has the capacity of the states to regulate horse racing. Even more significant are competitive forms of betting, such as that established in New York for off-track betting. Because of these problems, and despite the mystique that has grown up around horse racing, track operations should be subjected to the same rigorous analysis that is given any other form of gambling under consideration for legalization or expansion. A serious question exists about the capacity of regional markets to absorb additional racing dates or new tracks. The Task Force believes that the capacity of the states to regulate horse racing has not kept up with the expansion of the industry or with the development of exotic betting that creates new incentives for illegal manipulation of race track gambling.

*Sports cards.** Sports card betting is similar in many respects to the numbers game. It is a widespread form of gambling that usually is played for small stakes at relatively high odds. It is attractive to participants not only because of the prospect of winning but because of its association with sports events that have a huge following. At present, illegal operators make sizable profits. The return on a four game bet, for example, is only 10 to 1; the true odds are in the neighborhood of 15 to 1. The structure of illegal sports card operations indicates that legal betting, operated by franchise or some other form of licensing, could compete effectively with illegal games. Moreover, in some locations, sports cards are controlled by organized crime, and legalization might have some effect in reducing the betting income of criminal elements.

If legalization of sports card betting is contemplated solely in order to deprive organized crime of illegal gambling revenues, it is our view that the government itself should not operate the game.

Off-track betting. The Task Force has studied New York's experiment with off-track betting (OTB). Legalized off-track betting seemed to be worth trying, initially, on a number of counts. There were large numbers of illegal bookmakers in New York; the game seemed unlikely to stimulate compulsive gambling because betting off track on a cash basis does not possess the spontaneous character of race track or illegal betting; and the public, in two referenda, had favored legalization, apparently in the belief that it would divert to the public purse a substantial amount of revenues that were then going to organized crime.

Unquestionably, OTB in New York has generated a large volume of gambling as well as some profits. It also has had large expenses, including very substantial promotional costs. But there is no evidence that it has substantially reduced the business of illegal operations. Much of its volume represents a transfer from bets that would otherwise be placed at race tracks at a much lower ratio of expenses. There also is some evidence that OTB has introduced horse race betting to a sizable number of new bettors. The recent imposition of a 5 percent tax on OTB wagers has shifted a significant portion of betting volume back to the tracks and

* Sports card betting offers the players a series of games; for example, football games, with a point spread between the two teams in a given game. The bettor picks three to twelve teams. If he picks four teams and all of them win, or cover the spread, the bettor receives odds of 10 to 1. The more teams he picks, provided he picks them all correctly, the higher the odds. (See background paper for a more detailed explanation.)

to the credit and confidentiality offered by illegal bookmakers. It seems likely that OTB has thus created additional business for these illegal bookmakers.

The lack of such amenities as credit, anonymity, and evasion of taxes has moved OTB to the development of exotic wagers, which in turn are taxed more heavily, in an attempt to reach high revenue predictions. The evidence suggests that not only is OTB failing to meet its stated goals in revenue production, but it is also not having the impact on illegal gambling that was predicted for it.*

This experience is a clear example of how public policy makers lose sight of the stated purposes for legalizing gambling. The enterprise that was supposed to raise revenue at the expense of illegal operators instead raised it at the expense of legal tracks and by attracting non-bettors to its premises. Then, in an effort to maintain its revenues, taxes were increased, but revenues consequently declined. Thus illegal gambling apparently was not only not adversely affected by the legal game but may have actually gained business from new bettors as a result.

Sports betting. Betting on sports events — baseball, football, basketball, and other sports — may well account for most of the illegal gambling in the United States. In most cases, wagers are placed on single games and provide high returns to the bettor, which means that the return to bookmakers on balanced books is small, amounting to only about 5 percent. Because of its widespread nature and its potential for providing revenue that now goes to criminal elements, it seems a logical candidate for legalization. Unfortunately, the Task Force believes it would be impossible for the states to develop institutional arrangements for sports betting that, in this country at least, would assure competitive operations without exposing the government to the risk of significant losses. In addition, it is not possible under existing federal tax laws for a government-regulated private bookmaking operation to compete with illegal bookmakers who do not pay taxes. Any change in tax laws would serve to benefit illegal bookmakers who, because of their skill and experience and the special demands of the game, would tend to take over the legal

* Percy Sutton states:

I do not agree! While I do agree that OTB has created a new breed of bettors to become "hooked on gambling," I believe that OTB has made *some indentation* on organized crime, has been productive of revenue, and has employed heretofore "unemployables." But here, too, unless winnings are made tax exempt in all respects, legalized gambling can never make meaningful inroads on organized crime.

operation. Although several members of the Task Force view the possibility of such a takeover as insufficient reason to continue criminal penalties on bookmaking, the majority believes that society is not yet ready or equipped to legalize this form of gambling.*

* Julius Margolis observes:

Since the gambling industry is almost the exclusive property of criminals, we should not allow a fear that some criminals may continue to operate in legal gambling stop us from decriminalizing betting. Many regulated industries are involved in corruption, but this is not a sufficient reason to ban the industry or to nationalize it. If there are no objections to betting by individuals, then we should stop trying to create "criminals" of the citizenry or to force the citizenry to support a truly criminal element in supplying gambling facilities. Open entry to the supply of gambling is the best competition for the criminal.

The addicted gambler is a problem to himself and to his family. He is a problem today; it is likely that his numbers will increase with further legalization. The problem posed by gambling addicts may be smaller than the problems posed by speed or food or tobacco addicts, but they are a problem and we should take their welfare into account when we design regulations for a legal industry. However, we should begin with the assumption that gambling is not pernicious (until proven otherwise), that the commercial supply of a good desired by most households is not evil (certainly gambling opportunities are less harmful than tobacco — where morbidity is slower but surer — or fast cars — where death is faster but less certain), and adopt policies to minimize harmful effects rather than assume that wherever there is ignorance we should persist in the wrong-headed use of criminal sanctions.

Percy Sutton states:

The Task Force concludes that sports betting provides the illegal operator with his largest net profit but recommends that the various states resist legalization of sports betting because of a fear that illegal operators may infiltrate the legalized sphere. *I disagree* with this conclusion and support, in principle, the position of Julius Margolis.

Henry Rowen states:

I agree with the majority of the Task Force in opposing the legalization of sports betting but for reasons somewhat different from those stated in the Report. I am especially impressed with the arguments of professional sports personnel that bribery and corruption of players and officials would increase greatly with the legalization of sports betting. On the other hand, I do not believe that the mechanics of sports betting operations would present insurmountable difficulties for a state government. However, when and if the time ever arrives for legalized sports betting, I feel that franchises by the state to private operators would probably be the preferred mode of operation. I agree with Mr. Margolis and Mr. Sutton that the possibility of present illegal operators thereby finding a path to respectability should not be a matter of concern.

Jerome Cavanagh wishes to endorse these views.

Clearly, the Task Force has no answer for this problem, except to suggest further study. It would be worthwhile, for example, to undertake a close scrutiny of legal sports betting in Britain as a possible model.

Casinos. The major argument advanced for legal gambling casinos is that they can provide a needed stimulus to depressed areas in need of additional tourist business. The example of Nevada is constantly held out, and voters in two states are currently being asked to approve establishment of casinos in their states. But there is substantial evidence that this kind of economic development is purchased at high cost.

The central issue is the mode of operations. Publicly operated casinos almost certainly will not be able to offer the amenities which maké Las Vegas, for example, so popular. These amenities include credit, junkets for big gamblers, free liquor or entertainment, and other attractive inducements. Successful casino operation is an intricate and sophisticated business, requiring highly skilled personnel; private operation offers definite advantages over public ownership and management. However, casinos have a history of attracting the participation of organized crime and thereby producing a difficult regulatory problem.

In addition, it is not clear that the economic benefits from legal casinos are other than short-term, if that. The special situation of Nevada cannot easily be duplicated in New Jersey's Atlantic City or in New York's Catskills, and the evidence indicates that competitive forms of gambling can quickly nullify the temporary advantage obtained by the first community to set up a legal casino.*

Betting on a number of other games, including greyhound racing and jai alai, is currently legal in one state or another. In general,

* Percy Sutton states:

Properly established and regulated casino gambling can provide, I feel, a great deal of additional revenue to governmental coffers. Casino gambling could possibly be the most profitable of all of the gambling enterprises. Casino gambling should, however, in my view, be limited to operation in established resort and recreational areas and/or to visitors and registered hotel guests in other than recreational and resort areas.

Jerome Cavanagh comments:

I recognize the inherent possibilities of organized crime taking over casino operations, but I don't believe that this has to be the case. I believe that aggressive, effective government control and/or regulation could probably preclude such a happening.

we believe that there is a strong burden of proof on proponents of extending legalization to gambling on greyhound racing and other games. The public and legislators should be cautious in assessing their claims.

* * *

In sum, our study of gambling indicates that the current movement to extend legalization is based on false hopes and misconstrued evidence. It is not a healthy or promising trend in public policy. The Task Force has no dispute with the objectives of raising revenues for state and local governments from gambling and reducing the power and profits of illegal operators. But we are convinced that gambling is an inefficient generator of revenues and, in the main, a limited device for combating organized crime. For that reason, we have identified the difficulties involved in legalized gambling, and we have posed the hard questions that must be asked about every proposal that gambling be legalized in a community. We have proposed decriminalization of social gambling and legalization — with careful regulation — of charitable gambling.

Although our recommendations may not square with the temper of the times, we believe they are strongly supported by the facts: as a revenue measure, legalized gambling raises relatively small amounts of money in the wrong way from the wrong people; as a law enforcement weapon, legalized gambling is no substitute whatsoever for a vigorous and sustained assault on organized crime.

Book Review Paper by David Gault and Clifford Goldstein

The book under review is a collection of essays... The authors discuss the... The book is well written and... The authors provide a... The book is a valuable... The authors discuss the... The book is well written and... The authors provide a... The book is a valuable...

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Introduction

Although its origins are lost to recorded history, the institution of gambling was well established — and widely condemned — long before the first sweepstakes drawing or bookmaking arrest. Records of ancient Ethiopian and Teutonic societies suggest a familiarity with gambling. Crude games of chance were popular with early Philippine and American Indian peoples. Dice were invented and used in games for valuable stakes by the ancient Egyptians. Sports betting — on jumping, running, boxing, and javelin throwing — was common throughout the Greek and Roman empires. Card games and carnival contests, forerunners of today's casino attractions, were popular in medieval Europe.

Gambling has flourished, as a form of entertainment and a major recreational industry, despite abiding legal sanctions and wide social disapproval. Roman lawmakers suppressed dice games on the grounds that they encouraged idleness and crime.¹ Magistrates punished players and refused to consider "business matters conducted in connection with gambling." English judges similarly imposed both civil and criminal penalties on the gambler; he was fined or imprisoned and his contracts were unenforceable.

The first American gambling law, a Boston ordinance, was proclaimed barely a decade after the Mayflower arrived: "All persons

whatsoever that have cards, dice, or tables in their houses shall make away with them before the next court under pain of punishment."² Although unsuccessful in suppressing a favorite colonial pastime, the Boston Gambling Act became the model for laws governing most of the colonial territory. The offspring of these early enactments remain in the criminal codes of all but one of the fifty states. Either by constitutional decree or by statute, fifteen states outlaw gambling of any kind. The rest permit at least some forms of gambling. Horse racing is legal in thirty states, off-track horse race betting in two, dog races in nine, lotteries in thirteen, charity bingo in eighteen, jai alai in one, and draw poker and panguingue ("pan") in one. These figures do not include Nevada, which is in a class by itself; since 1931, it has permitted casino gambling, and it licenses bookmakers for sports betting as well as conventional horse race betting. But even in Nevada, the state gambling authorities must specifically license and approve each legal gambling activity. They have not, thus far, approved any form of lottery or numbers betting, and they have specifically disapproved wagers on elections.

Though ancient and widespread, anti-gambling laws have, on repeated occasions, been superseded by government's own efforts to promote gambling as a revenue raising device. Augustus Caesar sponsored a lottery to raise funds for the repair of Rome. Early French seaports, needing constant repair of their fortifications, held frequent public drawings. Queen Elizabeth I held the first government-sponsored English lottery to obtain funds for repairing harbors, defense, and public works. British colonization of America was financed, in part, by lottery profits, and colonial towns in turn used the lottery to finance public projects. Benjamin Franklin co-sponsored a lottery for the City of Philadelphia; George Washington promoted a lottery to help build a road over the Cumberland Mountains.³

French Finance Minister Colbert once observed that the art of taxation consists of so plucking the goose as to obtain the largest amount of feathers with the least possible amount of hissing. But often, the efforts to employ gambling as a fiscal device have ended in scandal and in strong public demands for restrictive gambling laws. In 1890, when the public learned that the famed Louisiana lottery had enriched its operators and friendly politicians by millions of dollars, Congress passed legislation banning the interstate movement of lottery materials, and the legal lottery disappeared from the United States for the next seventy-three years. But in time, the memory of scandal fades, and governments, ever eager to pluck the goose, turn back to gambling. During the two centuries of this nation's history, public policy has moved back

and forth between permissive and restrictive attitudes toward gambling. Judging from the actions of a number of state legislatures, the tide is now running strongly in favor of lawful betting. In the past ten years, thirteen states have shifted from the prohibition to the actual promotion of gambling by establishing lottery pools; two have authorized off-track pari-mutuel betting; several are considering the legalization of casino games; and some state study commissions are looking seriously at both numbers and sports betting. In state after state, the traditional taboo against gambling is being overcome by the need for new revenue and the desire to rehabilitate depressed areas and promote tourism. Excited by the success of the New Jersey lottery and the projected earnings of New York's Off-Track Betting system (OTB), many legislators are prepared to welcome gambling as the alternative to higher state taxes.

Frustrated law enforcement officials, too, are calling for legalization. They say their efforts are hopelessly compromised by judges — and a public — who do not take the gambling laws seriously. Plea bargains are common; fines are low; and jail sentences are very rare. Get the gambling laws off our backs, police spokesmen say; let us concentrate our efforts on serious crimes.

Many observers also maintain that the present laws make possible a lucrative monopoly of the illegal gambling industry for organized crime. According to this reasoning, the large criminal syndicates, protected from legitimate competition, make millions of dollars from gambling and use the earnings to underwrite other, more pernicious, illicit enterprises: narcotics, loan sharking, hijacking, and prostitution. Worst of all, illegal gambling provides both the motive and the financing for police graft and political corruption. Only legal competition, it is contended, can cut off this source of income and reduce the capacity of organized crime to buy official protection. So long as anti-gambling statutes are on the books, the underworld will enjoy an enormous source of revenue and power, and the gambling public will be forced to patronize illegal establishments.

Joining these proponents of legalization are increasing numbers of people who consider the current gambling laws morally unsound. They favor legal gambling not on financial or law-enforcement grounds but because the present system, in which some states outlaw private poker playing and others permit church-operated bingo, is discriminatory and hypocritical and undermines public respect for the law. Legalization will end this hypocrisy and get gambling into the open where it can be suitably regulated and controlled.

Other arguments for gambling are peculiar to certain states or forms of betting. States whose neighbors are about to install legal games are

impelled to imitate them or face the loss of consumer dollars, and tax revenues, to the game next door. States considering casino gambling are told it will create jobs, attract tourists, and restore depressed resort areas. And by attracting out-of-staters, as Las Vegas does, casinos can, so the argument runs, stimulate the economy of a whole region.

Puritan culture regarded gambling as inherently sinful. Although modern opponents of gambling rely less on theological points, they fear that legalization would lead to a wholesale gambling mania involving job absenteeism, failure to keep up with installment payments, and a marked rise in petty crimes. Citing the competitive advantages of illegal games and the unsavory history of legal lotteries in the late nineteenth century, they dispute the proposition that legalization would put gangsters out of the gambling business. Legalization, they insist, will whet the gambling appetites of present nonbettors, many of whom will then turn to illegal operators, with their offers of credit and tax-free winnings. And it will create new scandals — some involving elected officials — that will weaken public support of democratic institutions.

Though few will admit it, many opponents of legalization prefer the present arrangement, which combines a formal facade of disapproval with halfhearted enforcement and ample opportunities for those who would gamble to do so. They concede that the system is illogical and hypocritical but maintain that it does achieve some measure of regulation and constraint, whereas legal gambling would only further enrich organized crime and might unleash a gambling craze with serious consequences for American society.

State officials, weighing the merits of legalized gambling proposals, are apt to spend less time on questions of ethics and addiction than on matters of benefit and feasibility: What games have the most promising revenue potential? Should a game be operated by private license holders or by government itself? Which federal laws affect state gambling systems — and should the Congress be encouraged to change them? Each question raises difficult and related issues of public finance, law enforcement, and government regulation. For example, a government-operated game, manned by civil service workers on a no-credit, no-frills basis, may be less inviting and less profitable than one that is privately run. But some contend that only government ownership and management can keep organized crime out of the legitimate gambling business. On the other hand, state-operated games are not airtight, and increased involvement of public officials in gambling promotion and regulation seems to invite corruption of the political process. If the state is to run all legal games, the choice of games may be limited. It would be difficult, for instance,

for the state to offer non-pari-mutuel bookmaking and assume the politically intolerable risk of short-term operating losses that characterizes this game.

Federal laws and regulations also affect legal gambling. The federal government imposes an excise tax of 10 percent on all gambling wagers except those in casino games, pari-mutuel betting, and state-conducted lotteries in which the ultimate winners are in some way determined by the results of horse races.⁴ The statute can be interpreted quite liberally for purposes of conducting a state lottery (only the winners of the largest prizes need be determined by race results, and the race may be one run years before), but it definitely applies to bookmaking. Legal gambling advocates maintain that the tax protects illegal operators, who evade it, from legal competition.

Federal law prohibits the mailing of lottery tickets and the use of mail to notify winners or to send them their prizes.⁵ The law also prohibits the transportation of any potential claim to a gambling prize across state boundaries. In order to avoid violations of this law, lottery states appealing to the out-of-state market usually require entrants to put their names and addresses on the tickets and to bring the tickets to a collection point inside the state. The state issues receipts as records of the tickets, but they do not represent claim instruments. The procedure is costly and annoying to many potential players.

Federal statute also bans the transmittal of lottery information across state lines, either by newspaper or by radio and television broadcasting. Newspapers are permitted to carry the winning numbers, but radio and television stations, by ruling of the Federal Communications Commission, may not transmit even this limited information.

Finally, the federal income tax law poses problems for most legal gambling schemes. Gambling winnings are considered income, and the gambling operator must report single-wager payoffs in excess of \$600 at odds of more than 299 to 1. The vast majority of illegal operators and players ignore these provisions, withhold from the government several million dollars of taxable income per year, and give the illegal game a great competitive advantage.

The federal laws were originally intended to discourage the growth of illegal games, but they also have impeded the evolution of legal gambling and have thus been criticized by its proponents. In part in response to these complaints, Congress set up the Commission on the Review of the National Policy Toward Gambling, but federal law does not seem slated for early revision. States anxious to act in the gambling field will have to work around federal law for the time being.

United States Attorney General William Saxbe recently met with state officials involved in legalized gambling to notify them that they were in violation of several federal anti-gambling statutes. He has given them three months either to cease the violations or to persuade Congress to change the laws.

In reviewing their own policies toward gambling, states must weigh its presumed benefits against the corresponding costs. Unfortunately, these deliberations are likely to be sidetracked by extravagant claims on both sides. Opponents may portray gambling as a deadly threat to public morals or bourgeois capitalism, proponents as a substitute for tax reform or solid law enforcement. Evidence suggests it is neither. In its various aspects, gambling is a profitable recreational industry, a major source of crime and corruption, and a perennial social problem. Its regulation should be based on a hard look at gambling's revenue potential, its relation to crime and law enforcement, and its social costs.

I / The Games

Bookmakers have been known to take bets on the existence of flying saucers; a large British betting chain once offered odds "against the existence in Loch Ness of a large creature"; and an American oddsmaker recently quoted a line on the likely duration of a celebrity marriage. But most American gamblers bet on such mundane things as the outcome of horse races, the scores of baseball and football games, the results of a daily numbers pool, or the combined face count of two thrown dice.

Federal officials estimate that of every \$3 wagered in the United States only \$1 is bet on legal games.⁶ Most of the legal "handle" (wagered money) goes to on-track race betting; the rest goes to state lotteries, dog races, off-track betting in New York and Nevada, pari-mutuel jai alai betting in Florida and Nevada, commercial poker gambling in Gardena, California, and, of course, casino games and sports betting in Nevada. The major forms of illegal gambling include sports betting, horse race bookmaking, numbers, craps, blackjack, and football cards. Common to the legal games, other than casino play and Nevada bookmaking, is a guaranteed profit takeout for the operator. The game's cut comes first; prizes come out of the remainder. The illegal games, on the other hand,

always involve some degree of risk for the operators. If a sports bookmaker fails to balance his bets or a numbers banker sells an unusually great number of winning tickets, he may absorb a net loss. But in the long run, all the games reward competent operators with some measure of profit.

Legal Games

Pari-mutuel betting. First legalized by Kentucky in 1906 and now permitted in more than thirty states and 150 major track sites, pari-mutuel horse race betting is by far the most popular form of legal gambling. (Three other states are also considering installation of the pari-mutuel system.) The pari-mutuel bettor places a minimum \$2 wager on his horse to win, place (finish first or second), or show (finish first, second, or third). His bet is added, by computer, to all other bets in its category (win, place, or show). After betting is closed, the computers deduct a legally set percentage of each pool, representing the track and state share for that race. This "takeout" usually varies from 15 to 20 percent. The amount left in the win pool is divided among the winning bettors in proportion to the size of their wagers. In the place and show pools, the remainder, after the takeout, is divided first into two or three equal parts respectively, and then among place and show winners in proportion to their bets on each horse which has placed or showed. (In England, the amount wagered on winners is set aside before the takeout is deducted from the pari-mutuel pool. Thus, the pari-mutuel take applies only to wagers on losing horses. This system is much fairer to bettors than the American system.)

Race tracks also offer a variety of combination bets, in which the player wagers, at higher odds, on the performance of more than one horse. The daily double bet is a wager on the winners of two successive races; the exacta bet is a wager on the horses that will run first and second, in order, in the same race. The quinella is similar to the exacta except that the first two horses may finish 1-2 or 2-1. The superfecta is similar to the exacta except that it is on the first *four* horses in order. The odds on the superfecta are often astronomical — as high as 50,000 to 1. With such odds, horse race wagering takes on some of the characteristics of a lottery. This and other high-odds lottery-like forms of wagering, such as the Twin-Double and the 5-10, have caused a rash of scandals. Some of the charges of fixed races are justified, and some tracks have prohibited such forms of wagering as a result. As on all bets, the track takes out its legal percentage, plus the "breakage" — the

amount rounded off from the calculated winning payout to the nearest ten cents.

Pari-mutuel betting on dog racing is now operating in nine states, and legislation permitting such betting has been passed in two others. In addition, pari-mutuel bets on jai alai games are authorized in Florida and Nevada, and plans are under way to establish them in Connecticut.

Lotteries. Like horse racing, lotteries have had a long, colorful history in the United States. All thirteen original colonies established revenue-raising lotteries, and several of the country's oldest universities trace their financial origins back to eighteenth century lottery wheels. By 1830, authorized and unauthorized lotteries were collecting an estimated \$60 million, five times the entire federal budget.⁷ But by 1900, a series of scandals had turned public opinion and the Congress against lottery promotion, and the legal lottery disappeared.

Its reemergence as a revenue-raising device dates back to 1964 and establishment of the New Hampshire Sweepstakes. Not coincidentally, New Hampshire is one of the few states that has avoided imposition of a general income tax. In 1969, New York established its lottery. New Jersey, which, like New Hampshire, has no income tax, followed suit and, spurred on by New Jersey's success, ten other states in the past few years have done likewise.

Though the authorizing statutes confer wide discretion in determining the frequency of drawings, the price of tickets, and the number of prizes, the recent trend has been toward cheaper tickets (from fifty cents to a dollar), frequent drawings (New Jersey has opened a daily lottery), and a combination of high sweepstakes prizes (the "Millionaire's Drawing") with large numbers of much smaller prizes.

The lottery player purchases a ticket with a drawing date and his drawing number, usually six digits long, printed on it. He cannot choose the number that he gets. At the lottery drawing, at least one of the winning digits will be based on the results of a previous horse race. (This practice is intended to protect the winners from having to pay the 10 percent federal excise tax.) Some proportion of the total receipts, usually from 40 to 50 percent, is awarded to the winning ticket holders. The number of prizes depends on the number of participants in each pool. The remaining revenue, less operating expenses, is earmarked for some state purpose: Pennsylvania's earnings are used to provide property tax relief for the elderly; New Hampshire's go to the public school districts; and Connecticut's profits are turned in to the general fund.

Off-track betting. Off-track horse race betting is America's newest form of legal gambling. The first off-track pari-mutuel window opened

in 1971, and by 1974, the OTB corporation was operating over 132 parlors plus a telephone betting service. The daily betting handle has reached approximately \$2.5 million.

Originally, the off-track wager on a New York race was identical to the on-track bet. It was automatically fed into the track's pari-mutuel computer, and the payout was determined along with the payout to the on-track bettors. (Wagers on out-of-state tracks are handled in OTB's own pari-mutuel pool.)

As a result of controversy over the effect of OTB on track attendance and betting, the state has recently increased the amount that OTB must pay to the tracks. Under the new formula, 3.5 percent of the handle will compensate operators for expenses and lost receipts; the state will take 4.5 percent of the handle, and 6 percent will go to the City of New York. In 1974, the New York State legislature imposed a 5 percent surtax on OTB winnings, purportedly to increase OTB revenues. The early effects of the surtax have been to lower OTB's handle and net revenues and to boost track attendance and, presumably, the patronage of bookmakers. Connecticut also has passed OTB authorizing legislation, and studies are under way in Kentucky, New Hampshire, New Jersey, and Rhode Island.

Casino games. A number of casino games are legal in Nevada, under a system of state-licensed private management. They attract a yearly handle of more than \$500 million, with a state revenue yield of \$62.3 million. Americans also gamble an undetermined sum, estimated as high as \$3 billion, on casino games in Puerto Rico, Panama, and other Caribbean countries, Monte Carlo, France, England, Italy, and West Germany, among other places.

More difficult to estimate is the size of the illegal "casino" industry in America. Once made up of large, notorious gambling emporiums as well as smaller "sawdust joints," all offering a variety of table games, underground operations are now largely confined to floating crap and blackjack games. In some places, charitable organizations run illegal "Las Vegas" nights, with law enforcement authorities looking the other way. Experts estimate that \$2 billion per year is wagered on these illegal casino games, producing profits of \$170 million for the criminal operators.

The most popular casino games are craps, which accounts for roughly half of the legal revenues; blackjack, which accounts for about one quarter; and roulette, slot machines, baccarat, and side games, which account for the remaining quarter. Craps is a dice game where the odds

of various bets all favor the house in some degree (except for "odds bets," which do not favor either house or player but must be made in conjunction with other bets that do favor the house). Blackjack, a card game, has been called "the only casino banking game that combines both skill and chance."⁸ Although the house enjoys a percentage edge, skillful players can minimize or even reverse it. But such skillful players are quickly detected and made aware by the house that their play is not welcomed.

Roulette, the most generally popular game in European casinos, is not particularly popular in American casinos — some say because the odds in the American game favor the house more than those in the European version. Baccarat is the name given by Las Vegas to a South American game called "punto-banco," which is a variant of the popular European games of chemin-de-fer and baccara. In recent years, baccarat has become very popular in all of the large casinos on the Las Vegas "Strip" as a game in which large wagers are permitted. Bets of \$4,000 on a hand are commonplace today, and one casino has been known to give a particular celebrity a \$16,000 per hand limit.

"Keno" or Chinese lottery is another popular game played in most large Nevada casinos. A few casinos have bingo. Other casino games of minor importance are faro, big six, wheel, chuck-a-luck, and hazard. Many large Nevada casinos also have card rooms where poker and panguingue (or "pan" for short) are played.

Illegal Games

Sports betting. More money is wagered in sports betting than in any other form of gambling in the United States — and sports betting is the least likely candidate for legalization, particularly under government operation. Several thousand bookmakers handle sports bets exclusively, and many more take racing bets as well. In theory, these bookmakers act as brokers for the sports bettor, taking a commission for each wager. On football or basketball games, the bettor usually wagers \$11 to win \$10, though small bettors must often lay \$6 to win \$5. By attracting an equal volume of wagers on both sides of a sporting event, the bookmaker assures a takeout of \$1 for every \$22 worth of bets. To make the teams equally attractive, he assigns a point-spread handicap for the stronger team. If New York is favored to beat Los Angeles in football by six points, for example, New York backers collect only if New York wins by seven or more. If New York wins by exactly six points, the game is considered a tie for the purposes of the wager. If New York

loses, ties, or wins by less than six points, those who bet on New York lose.

Sports bookmaking is not foolproof against loss. It requires a skillful operation and involves substantial short-term risks. If the bets are not balanced, the bookmaker can lose. If he adjusts his point spread to keep the wagering even, he runs the risk of being "middled" — losing the bets on one team at the initial spread and those on the other team at the adjusted spread. He can reduce his risks by "laying off" excess bets on one team with another bookmaker; it helps if he is part of a larger bookmaking organization that can readily absorb unbalanced bets. But every bookmaker accepts the inevitability of some imbalances and some losing days.

The bookmakers use a different system in handicapping baseball games. They almost always use variable odds rather than a point spread to balance the betting. If a bookmaker calculates that the true odds on a game between Chicago and Atlanta are $7\frac{1}{2}$ to 5, he may list the game as "7-8 Chicago favorite." The bettor on Chicago must then wager \$8 to win \$5, while the Atlanta bettor puts up \$5 to win \$7. With wagers on each side, the bookmaker takes in \$13. If Chicago wins, he pays out \$13; if Atlanta wins, \$12. If the true odds are accurate, Chicago will win three out of five games, and the bookmaker will make \$2 out of every \$65 worth of bets, receiving in the long run the equivalent of a 3.1 percent commission. (But where the odds are not "even money," the bookmaker does not retain a fixed amount in every game no matter who wins — as he would in the football example with 11 to 10 odds and balanced bets.) "Booking sports bets isn't that easy," one expert has written; "if the line is not a true one, and the bookmaker is dealing to smart bettors, it's a safe bet he'll take a good beating to the action."⁹

In addition to the simple win or lose bet on an individual contest, other popular types of bets on football, basketball, and baseball include parlays and round-robins, in which the player tries to pick the winner of two or more games in a combination bet. In football or basketball, "teasers" are very popular, particularly with small bettors. A teaser is a special type of combination bet where the player receives a point spot on each game selected (see Figure 1). Also increasingly popular in football, basketball, and baseball are bets on the total number of points that will be scored in a particular game (the simple numerical sum of the points scored by each team). As an example, suppose that in a particular baseball game between New York and Chicago, the bookmaker hangs up an eight point total runs number. The player can select over or under

GAMES

LEGAL SPORTS CARD OF TYPE COMMON IN LAS VEGAS

Figure 1

Vegas

Turf & Sports

No 410

Football Parlay & Teaser



3 Winners Pays.....	5 for 1	
4 Winners Pays.....	10 for 1	
5 Winners Pays.....	15 for 1	
6 Winners Pays.....	25 for 1	
7 Winners Pays.....	35 for 1	
8 Winners Pays.....	50 for 1	
9 Winners Pays.....	75 for 1	
10 Winners Pays.....	100 for 1	

9 OUT OF 10 PAYS.....20 FOR 1

Teams Must Win—Tie Loses
You Can Take or Give the Points

ADDITIONAL OPPORTUNITIES

THE TEASER...You are given six (6) points on each game which you may apply as you choose. You may take six more points than indicated on the card or give six less. You can play both parlay and teaser on the same card.

TEASERS

4 Winners Pays.....	3 1/2 for 1	
5 Winners Pays.....	5 for 1	
6 Winners Pays.....	8 for 1	
7 Winners Pays.....	12 for 1	
8 Winners Pays.....	20 for 1	

Circle the Teams you Select and Return to

VEGAS TURF & SPORTS

19 Ogden
Free Parking

Telephone EV 5-9071

CARDS NOT CHECKED GO AS PARLAY

Did You Check Your Card Parlay, Teaser or Both?

WRITE NAME PLAINLY

Parlay Amt.		Teaser Amt.	
----------------	--	----------------	--

\$ _____ No 410 \$ _____

Check Here for Parlay

Check Here for Teaser

GAMES FOR FRIDAY-NIGHT, SEPTEMBER 21st

1. Bos. Patriots	vs. 3. Denver Broncos	+8
2. Oakland	vs. 4. Titans	Even

GAMES FOR SATURDAY, SEPTEMBER 22nd

5 Boston College	vs 6 Detroit U.	+3
7 Penn. State	vs 8 Navy	+8
9 W. Virginia	vs 10 Vanderbilt	+4
11 Villanova	vs 12 V. M. I.	+11
13 Army	vs 14 Wake Forest	+11
15 Maryland	vs 16 S.M.U.	+12
17 Indiana	vs 18 Kansas State	+19
19 No. Western	vs 20 So. Carolina	+13
21 Virginia U.	vs 22 Wm. & Mary *	+3
23 No. Carolina U.	vs 24 No. Carolina State	+7
25 Georgia Tech	vs 26 Clemson	+14
27 Kansas U.	vs 28 T. C. U.	Even
29 Oklahoma U.	vs 30 Syracuse	+1
31 Air Force	vs 32 Colorado State U.	+17
33 Missouri	vs 34 California U.	+13
35 Wyoming U.	vs 36 New Mexico U.	+13
37 Purdue	vs 38 Washington U.	+3
39 Duke	vs 40 So. California	+6
41 Kentucky	vs 42 Florida State	+7
43 Cincinnati U.	vs 44 Dayton U.	+13
45 Texas U.	vs 46 Oregon U.	+17
47 Alabama	vs 48 Georgia U.	+14
49 Arkansas	vs 50 Oklahoma St.	+13
51 Baylor	vs 52 Houston U.	+6
53 Florida U.	vs 54 Mississippi State	+10
55 L.S.U.	vs 56 Texas A & M	+10
57 Utah U.	vs 58 Colorado U.	+3
59 Oregon St.	vs 60 Iowa State	+7
61 Buffalo Bills	vs 62 N. Y. Titans	+4

PRO GAMES FOR SUNDAY, SEPTEMBER 23rd

63 N. Y. Giants	vs 64 Phil. Eagles	Even
65 Cleveland Browns	vs 66 Wash. Skins	+12
67 G. B. Packers	vs 68 St. Louis Cards	+13
69 Detroit Lions	vs 70 S. F. 49ers	+8
71 Balt. Colts	vs 72 Minn. Vikings	+8
73 Pitt. Steelers	vs 74 Dallas Cowboys	+8
75 Chicago Bears	vs 76 L. A. Rams	+8
77 S. D. Chargers	vs 78 Houston Oilers	+8
79 Dallas Texans	vs 80 Oakland Raiders	+13

Did You Check Your Card, Parlay, Teaser, or Both?
Games for Friday, Saturday & Sunday,
Sept. 21, 22, 23, 1962

CIRCLE TEAMS CLEARLY

Check Here for Parlay <input type="checkbox"/>		Check Here for Teaser <input type="checkbox"/>							
1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50
51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70
71	72	73	74	75	76	77	78	79	80

this number but he must lay 11 to 10 odds. If the two teams score a total of eight runs, then the bet is a tie.

Although football, basketball, and baseball are the most popular sports and generate most sports wagers, they are not the only forms of sports wagering. Boxing has long been popular as an occasion for wagers but is on the decline both in general popularity and as a wagering medium. Professional golf tournaments and ice hockey, on the other hand, are becoming increasingly popular both as games and as wagering media.

Sport cards betting. Another form of sports betting, sports card betting is usually operated independently from bookmaking enterprises. Sports cards, an important and much misunderstood form of wagering on sporting events, are often erroneously classified as sports pools. The British, among others, have true sports pools that return a fixed proportion of the total amount wagered in the pool to the bettors. Sports cards in the United States allow players to bet on the outcome of many games to be played on one day or a weekend. The bettor may choose from three to sixteen games, at odds that run from 3 to 1 all the way to 999 to 1 depending on the number of games picked.

Football cards are by far the most popular — they receive about 70 percent of all card action. Basketball and baseball run a poor second and third with 17 percent and 13 percent of the total play respectively. Figure 1 shows a typical legal football card of the type common in Las Vegas. Figure 2 shows an illegal card distributed in the Los Angeles area. The cards come in innumerable varieties in different localities, and although the odds follow a similar pattern, they differ in detail. (These variations are not to be confused with the equalizing point spreads on individual games which also differ from card to card.) Some cards, such as the one shown in Figure 1, contain both college and professional games. Still other cards offer only college selections.

The most usual bet on a card is \$1.00, but bets of several dollars are not uncommon. Players are more inclined to bet on several different cards than to make large wagers on a single card. As in regular bookmaking, the games are equalized by means of point spreads. The seller keeps the bet if any pick loses or produces a tie with the spread. He pays off only to a perfect (or near perfect) selection card, and then only at odds well under the true odds. A player picking three games, for example, faces 7 to 1 odds but is rewarded at 4 to 1. As the number of games increases, the odds disparity grows enormously. As a result, the seller's gross take is somewhere between 40 and 80 percent of total receipts.

Horse-race bookmaking. Often part of a combined sports-racing operation, horse-race bookmaking is a \$5 billion-plus enterprise. Its

ILLEGAL SPORTS CARD FROM LOS ANGELES AREA

Figure 2

NATIONAL FOOTBALL HANDICAP

All Teams Must Win
TIES LOSE

You May Give or Take the Points

This card used as a business stimulant only.
Not to be used as an inducement to wager.

3 Teams.....	5 Points
4 Teams.....	10 Points
5 Teams.....	15 Points
6 Teams.....	25 Points
7 Teams.....	40 Points
8 Teams.....	65 Points
10 Teams.....	100 Points
16 Teams.....	1000 Points
9 out 10.....	20 Point Bonus

Nº 30957

Nº 30957

Name	No. Teams
Agent	Amount

PRO FOOTBALL

Games played –
Saturday, December 16, 1972

1 S. F. 49ers 2 Minnesota + 3
3 Miami 4 Baltimore + 10

Games played –
Sunday, December 17, 1972

5 Atlanta 6 Kansas City + 3
7 N.Y. Jets 8 Cleveland + 3
9 L.A. Rams ... 10 Detroit + 4
11 St. Louis ... 12 Philadelphia ... + 7
13 Pittsburgh ... 14 San Diego + 7
15 Denver 16 New England. . . + 10
17 Dallas 18 N.Y. Giants ... + 10
19 Green Bay ... 20 New Orleans ... + 13
21 Cincinnati ... 22 Houston + 13
23 Oakland ... 24 Chicago + 13
25 Washington .. 26 Buffalo + 14

Games played – Sat. & Sun., Dec. 16 & 17, 1972
Check (x) Teams Clearly – Games must be played
Erase Cards Void Card

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50
51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70
71	72	73	74	75	76	77	78	79	80
81	82	83	84	85	86	87	88	89	90

gross receipts are comparable to those of the racing industry itself. Its operations are riskier and more complex than the pari-mutuel system, but its long-term profits are high. Generally, a bookie pays off the same amount that a bettor would collect at the race track, but he will not collect the same percentage takeout as the track, unless he receives bets in the same proportions as the track. The successful bookmaker limits his possible losses in a given race by setting a ceiling or "extension" on the wagers he will cover on a particular horse. Bets over the extension

are either not accepted or laid off with another bookmaker. Ultimately, bets may be laid off at the track itself, protecting the top bookmaker's extension. Years ago, the largest bookmakers usually kept lay-off men at the major race tracks to receive (illegally) instructions up to the last second before post time. This practice has largely disappeared. At present, bookmakers lay off very little money at tracks. (The New York OTB operation could also be used, in theory, for lay-off operations; it has the advantages of convenience and legality.) Bookmakers also may set payoff limits for long shots — usually 15 or 20 to 1 for win bets — to guard against extraordinary payoffs. In spite of these betting and payoff limits, off-track bookmaking has a wide following. It offers convenience, tax-free winnings, credit accounts, and — for heavy plungers — the opportunity to place large bets without affecting track odds. Generally, for smaller players, bookmakers offer popular combination bets, such as parlays, round-robins, "if" and "reverse" bets, which are not offered by tracks or OTB. (Bookmakers have been known to vanish mysteriously when a large player hit a multi-horse parlay or round-robin.)

The numbers game. Numbers or policy betting is a form of lottery. In the typical operation, a bettor selects a three-digit number between 000 and 999. The winning number is calculated from figures which appear at some designated place, most often a race-track tote-board or a newspaper financial page. The payoff is usually at 500 or 600 to 1 (less the 10 percent tip paid to the "runner"), leaving a gross profit of 40 or 50 percent. Odds on popular numbers — round figures and triple digits (777), for instance — are further reduced, often to an advertised payout of 400 to 1. In spite of the small payout in relation to the odds, numbers betting thrives in the large urban centers. Part of its appeal lies in the players' freedom to pick their own numbers; most players pick combinations that have some personal significance. At reduced odds, they can also bet on only two of the three digits — a "bolida" bet — or on single digits.

The organization of the numbers game is three-tiered. Runners collect the bets, extend credit, and pay off winners. They report to a district controller who in turn reports to the banker. In many large cities, a fourth organizational level — the large criminal organizations — protects bankers from the law, controls competition, and provides cash to finance large winnings.¹⁰

II / Gambling and Public Revenue

Like many of his fellow politicians, Governor Marvin Mandel of Maryland refers to gambling as "the last untapped source of state revenue."¹¹ Many state officials see gambling as a device that would at least avert immediate increases in general incidence taxes. (Forty states presently tax individual income, forty-six tax corporate income, and forty-five have general sales taxes.) The desire for such a device is understandable.

Unfortunately, state officials have been misled by the over-estimates of illegal gambling income that regularly appear in the press. They have not taken into account the effects of competition, both among different legal games and within the same game among neighboring states. And they have, on many occasions, simply exaggerated. By the end of this decade, lottery (see Table 1) and other gambling revenues may be part of the revenue structure in a good many states. But available evidence does not encourage the view that legalized gambling is a way out of the states' financial squeeze.¹²

LOTTERY REVENUES
(Millions of Dollars)

Table 1

State	Period	Gross Revenue	Net Revenue to the State
Connecticut	Feb. 1971-72	\$ 34.6	\$16.5
	Feb. 1972-73	34.7	16.0
	Feb. 1973-74	30.8	
Maryland	May 1973-74	38.7	16.0
Massachusetts	1973	87.0	35.0
Michigan	June 1973-74	135.7	65.0
New Hampshire	1972	7.7	2.7
	1973	6.8	2.6
New Jersey	June 1971-72	137.5	69.0
	June 1972-73	112.7	56.7
New York	April 1972-73	130.0	58.5
	April 1973-74	113.5	51.1
Pennsylvania	June 1972-73	126.2	57.5

Source: Prepared for the Twentieth Century Fund by Dalton Delan.

Current Revenue from Legal Gambling

The municipalities and states now receive \$850 million per year in revenues from legalized gambling, assessed from a gross take of \$2.1 billion that, in turn, is retained by operators from a total handle of more than \$10 billion. (Table 2 provides a picture of state revenue from gambling in 1973. Table 3 provides a breakdown of these figures into categories of gambling.)

The size of the take from any form of gambling depends on such variables as the location of the game, its prize structure, its competitors, its promotional activities, and prevailing economic conditions. The game should be physically accessible to its natural patrons; its rewards should be sufficient to attract players from other leisure activities; and its advertising material should appeal to consumer tastes. Otherwise, its players will turn to other pursuits. For the most part, gambling has no magic hold on its customers.

Horse racing. The horse racing industry, for example, is showing signs of trouble. In 1971, the states received \$508 million from racing; 90 percent came from the states' share of the pari-mutuel takeout and the rest from breakage, license and admission taxes, and concessions.

STATE REVENUE FROM GAMBLING, 1973

Table 2

State	Amount	Percentage of Total State Revenue
New York	\$230,935,088	2.8
Pennsylvania	87,237,895	2.0
Michigan	87,082,333	2.4
New Jersey	81,567,955	4.2
California	75,270,723	1.0
Massachusetts	67,006,040	3.3
Florida	62,658,960	2.5
Nevada	62,308,304	30.7
Illinois	53,100,575	1.4
Maryland	28,614,145	2
Ohio	18,407,968	.7
Connecticut	15,433,565	1.4
New Hampshire	14,439,905	9.3
West Virginia	12,062,922	2.1
Delaware	9,414,360	3.3
Kentucky	8,776,688	.9
Arkansas	8,730,877	1.7
Rhode Island	8,021,938	2.5
Louisiana	7,146,325	.6
Arizona	5,628,666	.8
Colorado	5,468,682	.8
Washington	4,443,136	.3
Nebraska	4,176,200	1.1
Oregon	3,183,952	.5
Vermont	2,588,139	1.5
Maine*	1,736,000	.7
South Dakota	1,730,924	1.1
New Mexico	1,723,734	.4
Idaho	156,747	.1
Wyoming	10,674	.0

* 1971 figures

Source: Commission on the Review of the National Policy Toward Gambling.

Over 80 percent of the revenue came from the eight major racing states. (Table 4 shows the takeout percentages and actual tax rates for these states.)

But the prognosis for future racing revenues is uncertain. The 1972 tabulations show a decline in state revenue from horse racing — the first in twenty-four years.¹³ The state share dropped from \$508 million to \$497 million, with much of the loss suffered by major racing states —

New York, Illinois, and Michigan. On the other hand, in 1973, state revenue from horse racing rose to \$533.3 million, with much of the gain supplied by New York.

PRESENT REPORTED LEGAL GAMBLING REVENUES FOR MAJOR GAMES

Table 3

(In Billions of 1973 Dollars)

	Handle	Gross Take	Government Revenue
Racing (on-track)	5.50	1.00	.50
Off-Track Betting	.55	.10	.06
Lotteries	.50	.30	.30
Casinos	3.60	.70	.04
Total	10.15	2.10	.80

Source: Jess Marcum and Henry Rowen, "How Many Games in Town?—The Pros and Cons of Legalized Gambling," *The Public Interest*, No. 36, Summer 1974, p. 38. Figures originally compiled by the authors for a working paper commissioned by the Twentieth Century Fund.

PARI-MUTUEL TAKEOUT AND EFFECTIVE TAX RATES AS PERCENTAGE OF HANDLE, JANUARY 1, 1972

Table 4

	Total Takeout		Effective Tax Rate (Takeout share plus breakage)	
	Thoroughbred	Harness	Thoroughbred	Harness
California	15.75%	15.75%	7.66%	6.67%
Florida	17	17-19	7.60	7.27
Illinois	16	16	8.00	7.18
Maryland	14-15	17-18	5.47	6.30
Michigan	15	15	8.47	5.49
New Jersey	17	17	9.98	6.98
New York	17	17	10.54	10.10
Pennsylvania	15-17	17	5.40	5.47

Source: Report of the Governor's Commission on the Future of Horse Racing in New York State (1973), p. 118.

Track operators maintain that the effective tax rates are too high. The large state takeout is part of a vicious cost squeeze that is depressing the industry. Low bettor payoffs keep attendance and handle down. (Racing lore holds that the handle drops 6 percent for every 1 percent hike in the takeout.) Smaller betting pools mean smaller purses, horses of lower quality, and a further fall-off in attendance. "Horse racing is in trouble," according to the president of the Thoroughbred Racing Association. "Racing must have a more equitable share of the take. Then we can start developing our market."¹⁴

That market, some recent figures suggest, is shrinking — at least in the traditional racing states. Of the ten major thoroughbred tracks, seven experienced declines in average daily attendance during 1973. The average daily handle fell at four, and the increases recorded at three of the other six were below the general inflation rate. Track operators attribute this poor performance to weak economic conditions generally, to lack of interest on the part of young adults, to saturated market areas in some parts of the country, and, in New York, to the competition of OTB.

Not all the portents for horse racing are bad. Tracks in some of the newer racing states are doing well, but enough are not to underscore some unpleasant facts about pari-mutuel revenue. It is subject to the same influences and uncertainties that affect earnings in other consumer enterprises. Profits fall when the industry oversupplies its market (as it has in New York State and in the New Jersey–Delaware–Maryland area) as well as in response to increasing competition in the leisure market, inadequate promotion, and deteriorating amenities at the tracks. Profits suffer also, as a chastened New York State conceded after the dismal 1972 racing season, when "government views horse racing primarily as a source of revenue and only secondarily as a sport and valuable economic asset to the state."¹⁵ Accepting the industry's argument that state taxes are killing the goose that laid the golden eggs, New York subsequently approved an experimental cut in the pari-mutuel tax. Other states are likely to follow New York's lead in another area: the establishment of off-track betting. Intended to provide a revenue windfall for New York City and a mortal blow to area bookmakers, the nation's first legal OTB system has been a center of controversy since it opened. Its start-up costs were much greater than anticipated, and its early revenue production lagged behind the more optimistic early estimates.

Like the track itself, OTB retains roughly 17 percent of the handle after prizes. In New York's experience, operating expenses eat up an-

other 10 percent, and 2 or 3 percent more goes to the tracks. The net profit is 4 percent; a handle of \$1 billion produces revenues of \$40 million. It is divided, in New York's case, between the city and state.

But some of the off-track earnings come at the expense of on-track revenues. OTB has had a pronounced impact on attendance and handle at New York area tracks; in 1972, the first year in which OTB was a major factor, daily attendance declined 16.4 percent at thoroughbred meets and 10 percent at local harness tracks.

After the 1972 racing season, the state established a special Commission on the Future of Horse Racing to study the true impact of OTB on the New York racing industry. The Commission found that OTB produced \$3.5 million in government revenues in 1971; under the statutory formula, \$.5 million went to the state and \$3 million went to New York City. In 1972, OTB revenues rose to an estimated \$20.4 million; \$5.9 million for the state and \$14.5 million for the city. The amount of revenue produced by on-track wagering, however, declined in 1972 from \$176.9 million to \$163.2 million. (In 1973, it increased somewhat, to \$164 million. See Table 5.)

TOTAL GOVERNMENT REVENUES FROM NEW YORK RACING
(Millions of Dollars)

Table 5

	1970	1971	1972	1973
On-Track	\$177.0	\$176.9	\$163.2	\$164.0
Off-Track	—	3.5	20.4	51.1
Total	177.0	180.4	183.6	215.1

REVENUE TO THE STATE FROM NEW YORK RACING

	1970	1971	1972	1973
On-Track	172.2	171.5	158.2	163.4
Off-Track	—	.5	5.9	16.6
Total	172.2	172.0	164.1	180.0

REVENUE TO THE CITY FROM NEW YORK RACING

	1970	1971	1972	1973
On-Track	5.3	5.4	5.0	.6
Off-Track	—	3.0	14.5	34.5
Total	5.3	8.4	19.5	35.1

Source: New York State Racing Commission.

OTB's net revenue effect has been somewhat redistributive, substituting gains in New York City revenue for losses in state revenue. State receipts from both on- and off-track betting declined by \$8 million in 1972, while local revenue increased by \$11 million. But in 1973, state receipts increased by \$16 million and local receipts by \$15.6 million.

The growth of OTB contributed to an immediate decline in the tracks' gross revenues and made it difficult for the industry to restore and promote its product. "Off-track betting can be restructured to benefit the sport in New York," the Commission concluded, "but unless it is restructured it can kill horse racing."¹⁶

Restructuring the system meant first acknowledging that, though it had cut into illegal bookmaking to some extent, OTB had prospered largely at the expense of attendance at the tracks. Public opinion surveys have produced conflicting figures on this subject, but the great weight of the evidence suggests that OTB is highly competitive with the on-track industry.¹⁷ Former track patrons prefer the convenience, accessibility, and inexpensiveness of the OTB parlor. (In such a dollar-for-dollar transfer of wagers from the track to OTB, the government is actually losing money. New York OTB's operating costs for 1972 averaged 10 percent of handle, while track costs came to only 1.66 percent. And the state takes about ten cents of every dollar bet on track, but the city takes only four cents of the OTB dollar.)

The Commission recommended a substantial increase in OTB's contribution to nearby tracks, plus a 5 percent surcharge on all OTB bets and a decrease in the state's on-track takeout. These proposals were intended to return betting to the tracks. The New York legislature initially responded by cutting the on-track takeout from 17 percent to 14 percent on an experimental basis. Later, they imposed the 5 percent surcharge and raised the takeout on exotic wagers to 25 percent.

Off-track betting in New York is an evolving experiment. Some of its growing pains and some of its marketing advantages may not be relevant for other states contemplating similar projects. For instance, an OTB system that handles bets only on out-of-state races would not share New York's concern about adverse effects on the tracks and the racing industry. Barring a court order (the law on this point is unsettled), that system might avoid paying the 2 or 3 percent tribute to the tracks and could keep some 7 percent of its handle for public purposes. On the other hand, if it did not achieve a customer density as great as New York's, it might not be able to keep its operating expenses as low as 10 percent.

Still, some of New York's experiences bear review. Off-track betting has been a disappointing and sometimes a deceptive source of revenue. It has been costly in terms of both operating expenses and harm to the racing industry. Although it was conceived as an alternative to the illegal bookmaker, OTB has instead become a competitor of the race tracks and the creator of a new betting market. At least a third of OTB's handle has been in exotic wagers — the superfecta, trifecta, and so forth — where a small bet against high odds returns a four or five figure prize to the winner. Such bets are more lottery than race wagers. They appeal mostly to small players, very few of whom bet with bookies.

On the other hand, OTB has generated an impressive amount of legal horse race betting. In 1972, it handled \$176.3 million in wagers — more than a quarter of the total handle for all the tracks combined. If public revenue is the sole aim of off-track betting, a limited off-track system, one that operates primarily in large cities, can be designed in many states and expected to add modest amounts to pari-mutuel wagering revenue.

Lotteries. Early returns from the thirteen state lotteries show that their revenue yields are also hard to predict and sharply affected by interstate competition and promotion. The first-in-the-nation New Hampshire lottery grossed \$5 million, in 1964 — well below the predicted sales level. With the opening of the New York pool in 1967, New Hampshire's gross revenues plummeted to \$2.5 million; and its new earnings fell to \$2 per capita. Revenues continued to shrink until 1971, when New Hampshire followed New Jersey's example and instituted a weekly drawing. Sales rose to \$4.3 million, giving the state an eight-year net profit total of \$13.2 million — \$12.6 million for the school districts and \$671,000 for the general fund.¹⁸

The New York lottery similarly failed to meet its early revenue projections, and its accounts worsened with the start of New Jersey's streamlined lottery in 1971. Offering fifty cent tickets and weekly drawings, New Jersey captured much of the market from New York's monthly, dollar-a-ticket pool. In the first year of direct competition, New Jersey outgrossed New York by almost three to one. New York then overhauled its lottery along New Jersey lines, increasing prizes from 30 to 40 percent of gross sales, slashing ticket prices, and introducing weekly drawings. Sales jumped immediately, reaching a high in fiscal 1972 of \$77 million. Of that amount, \$34.5 million was net profit for the state, representing roughly .4 percent of annual state revenues.

By far the most successful of the state lotteries, New Jersey's version showed, after eighteen months of operation, gross sales of \$210 million, \$102 million going to state institutions and schools.

But competition from New York and the new Pennsylvania lottery was stiff, and in November 1972, New Jersey introduced another new wrinkle — the daily lottery. Officials hoped that the daily drawing would recapture bettors who had lost interest in the weekly pool, but daily sales have been disappointing. From an opening high of 2.5 million tickets a week, volume dropped in 1973 to a million tickets. Weekly sales were off as well, and New Jersey began experimenting with special prizes, cars, and groceries to revive public interest.

Despite these new promotional twists, ticket sales have not returned to the original levels, but New Jersey's overall earnings have exceeded the most hopeful predictions; the state anticipated \$61 million in revenue for 1973. Its success has prompted serious inquiries from many other states.

The long-run fiscal potential of a lottery is difficult to predict, but a lottery of the New Jersey type seems likely, at least initially, to produce yearly earnings of roughly \$10 per capita. In Massachusetts, a recent projection puts the first year net take at \$66 million, or \$11.80 per capita. As the novelty interest declines, though, so will profits. In recent years, the New York and New Hampshire lotteries have produced about \$2 per capita. Variables affecting a state's lottery yield include the nature and structure of the lottery, the competition presented by lotteries in nearby states, the level of disposable personal income, and the propensity of the state's citizens to gamble. The optimal yield of \$10 per capita, though far from negligible, would represent in most states only 1 or 2 percent of the revenue of state and local government.

Casino gambling. Legal casino gambling is an important source of revenue in one state — Nevada. In fiscal 1973, casino gambling license fees produced \$42.2 million for the general fund, and casino entertainment taxes amounted to another \$8.7 million. Casino gambling provides about 43 percent of all Nevada's tax revenues.¹⁹

Nevada's good fortune should be kept in perspective. Five states make more money from gambling assessments than does Nevada. New York State officials talk of creating a "Las Vegas of the East" in the Catskill resort area, and a study of resort casino gambling, commissioned by the State of New York, declares that "an industry big enough to handle all the business currently being done in Nevada" could be built

up in fifteen to twenty years.²⁰ Unfortunately, Nevada's present take from casino taxes amounts to less than 1 percent of New York's present yearly revenue needs.

Casino earnings have not always been a major source of Nevada revenue. Prior to 1945, state fees were nominal and the total revenue they produced was only about \$160,000 a year. In 1945, the state made license fees a percentage of casino revenue, collecting 1 percent of all gross quarterly revenues exceeding \$3,000. In 1947, the state doubled the percentage, and later it introduced a progressive fee schedule. Currently, the Nevada State Gaming Commission collects 3 percent of all gross revenue under \$150,000 per quarter year, 4 percent from \$150,000 to \$400,000 per quarter, 5 percent from \$400,000 to \$1 million per quarter, and 5½ percent on gross revenue exceeding \$1 million.²¹

An additional license assessment is based on the casino's size. An establishment is charged \$100 a year for operating one game, \$1,750 for five games, \$6,000 for ten games, \$16,000 for sixteen games, and \$200 for each game thereafter. Nevada's casino industry is enjoying a decade of strong financial growth. Gross taxable revenues have increased each year, from approximately \$180 million in 1962 to nearly \$630 million in 1971. State and local tax revenue has also increased. Between 1962 and 1972, the state share rose from \$11.4 million to \$62.3 million, and county fees from \$3.2 million to \$8.0 million, while city and other local assessments went from \$1.4 million to \$2.8 million. The more erratic federal tax bite also grew from a low of \$4.9 million in 1963 to a high of \$11.2 million in 1971, but a change in the tax laws reduced the 1972 share back to \$4.9 million.²²

The industry has enjoyed remarkable good luck. It is free from legal competition. It has benefited from the enormous population growth in the Los Angeles and San Francisco areas and from the increasing ease of airplane and automobile travel. Nevada attracts over 20 million tourists annually; and the Las Vegas hotel managers, who are planning a 50 percent increase in rooms by 1974, expect that figure to continue to grow. In the past ten years, Nevada gambling has produced \$387 million in combined federal, state, and local revenue, and casino owners have probably retained substantial profits. With its tax revenue from gambling, Nevada has never felt the need of levying a state income tax.

But if casino gambling were installed in states like New York and New Jersey, much of the revenue would presumably come from state residents. Each dollar spent on casino games would then become a dollar not spent on some other state enterprise — horse racing, movies, sporting events, or some consumer service — and would accordingly

reduce state revenues from the pari-mutuel tax, the sales tax, entertainment taxes, and so forth. Similarly, many of the jobs created by casino gaming might not be new jobs but jobs transferred from other enterprises hurt by the competition of casino games.

Some of the casinos' income would, of course, be new — that coming from out-of-state players and from former patrons of illegal casino operations. But the out-of-state bettor has his counterpart in the resident who may himself be lured to a nearby state that has established a more attractive competing casino system. The competition between bordering states may produce a stand-off in new revenue gains or may distinctly favor one legalizing state over another. As for the illegal player, he is usually a big bettor, one who is used to betting on credit or "markers." Both Nevada and large illegal games extend credit to major customers and do so on the honor system. (Payment of gambling debts, even those incurred where gambling is legal, is unenforceable in some states, including, curiously enough, Nevada.) It is hard to conceive of a state or public-benefit-corporation casino operator extending credit on this basis — and absorbing the annual Nevada loss rate of 5 to 10 percent of credit extended on bad checks and markers.

Finally, the fiscal impact of legal casinos would reflect the authorizing state's relative interests in revenue and law enforcement. A network of privately operated casinos, providing credit, lavish entertainment, junkets, and complementary accommodations, would attract more players and generate more revenue than a creditless, state-run casino. It would also attract, if history in Nevada and England is repeated, criminal elements who attempt to turn casino profits to their own ends. "If casinos are not state operated," a senior state police chief has warned, "I can tell you that organized crime is going to control them."²³

But others believe that, with sufficient attention to licensing and regulation, states could effectively control the problem of organized crime vis-à-vis privately franchised and operated casinos. Nevada, though once plagued with such problems, now has them well under control.

Revenue from Illegal Gambling

Gambling literature abounds with estimates of this country's illegal betting handle. One expert puts the figure at an astonishing \$500 billion, including bets on private card games and wagers between friends.²⁴ But the most quoted estimate is one offered by the 1967 Presidential Crime Commission: "Most enforcement officials believe that illegal wagering on horse races, lotteries (numbers), and sporting events totals at least \$20 billion each year."²⁵

PRESENT ESTIMATED ILLEGAL GAMBLING REVENUES
(In Billions of 1973 Dollars)

Table 6

	Handle	Gross Take	Operators Net Revenues
Off-Track Betting	5.50	1.00	.50
Lotteries	.20	.10	.05
Numbers	2.50	1.00	.25
Casinos	2.00	.40	.15
Sports Betting	12.00	.70	.50
Bingo ¹	.30	.15	.10
Cards ²	—	.07	.05
Slot Machines ²	.40	.10	.07
Total	22.90	3.52	1.67

¹ Excluding games operated by churches or charities.

² Other than in casinos.

Source: Jess Marcum and Henry Rowen, "How Many Games in Town?—The Pros and Cons of Legalized Gambling," *The Public Interest*, No. 36, Summer 1974, p. 38. Estimates originally prepared by the authors for a working paper commissioned by the Twentieth Century Fund.

Table 6 sets forth the estimated revenues for various illegal games, including estimates of take and operators' net revenue as well as handle.²⁶ The total estimate of the handle is consistent with that of the 1967 Presidential Crime Commission, allowing for the addition of casino gambling and the effects of seven years of inflation.

Although these estimates cannot be confirmed or refuted, those for the handle have won repeated endorsements from police officials and wide currency with gambling commentators. No such consensus, however, attaches to the amount of profit. The commission itself estimated that "profit is as high as one-third of gross revenue — or \$6 to \$7 billion each year."

"No one knows exactly how much money is involved in gambling in the United States," Attorney General Kennedy wrote in 1962. "What we do know is that the American people are spending more on gambling than on medical care or education; that, in so doing, they are putting up the money for corruption of public officials and the vicious activities of the dope peddlers, loan sharks, bootleggers, white slave traders, and slick confidence men."²⁷

Government statistics show that in 1962, total expenditures on medical care were \$24 billion, on education \$22 billion, and on recreation (probably excluding illegal gambling) \$21 billion. An extrapolation of the estimates in Table 6 and back to 1962 (using a 5 percent annual inflation rate) yields the following figures, all in billions of dollars.

	<i>Handle</i>	<i>Take</i>
Illegal	14.0	2.3
Legal	5.5	1.0
TOTAL	19.5	3.3

The *total handle* was barely comparable to, though a little less than, the expenditures on either medical care or education. But Kennedy seems to have been referring only to illegal gambling. Moreover, he, like many others, apparently equated "spend" to "handle." But the public as a whole can clearly spend only the equivalent of the gross take — the handle minus prize payments. Confusion on this point has resulted in grossly exaggerated estimates of the profitability of illegal gambling. President Nixon's 1969 message to Congress on organized crime also reflects this confusion: "Estimates of the take from illegal gambling in the U. S. run anywhere from \$20–\$50 billion, a figure larger than the entire Federal administrative budget for the fiscal year 1951."

The \$20–\$50 billion figure clearly originated as an estimate of handle. Misconstrued as take, it made the statement an enormous overestimate of the level of illegal gambling.

Economic analysis of organized betting operations suggests that the \$2 billion figure for net profit is more accurate. Consider the sports bookmaker who necessarily functions at a low profit margin. The customary 11 to 10 bet on football and basketball yields a nominal 4.5 percent commission before expenses; the typical baseball bet produces even less.

Out of that commission, the bookmaker takes his own salary and, if his operation is large, the salaries of the "writer," who transcribes bets from the telephone, and the "tabber," who decides when to change spreads or lay off bets. In addition, he may employ runners to take bets directly and to provide clients with telephone access by use of a code word. The bookmaker also pays for office space, telephones, police protection, and often, if he is working independently, tribute to the local criminal organization.

His sports earnings are usually enhanced by horse race bets. If his profit approximates the track's average of 17 percent, the bookmaker

makes as much from a \$1 bet on horse racing as he does from \$4 or \$5 of other sports bets. But the average sports bet is about five times the size of the average horse bet. As an example, \$2 is the standard minimum bet on a horse; \$10 would be the corresponding amount wagered on a sporting event. Some bookmakers will accept smaller wagers but usually grudgingly. So bookmakers do get comparable amounts from sports and horse race betting. It is a mistake to focus on the "thin edge" or small percentage that sports bookmakers operate on without, at the same time, taking due note of the relatively large dollar size of the individual bets.

Fixed costs for the numbers game are quite high. Prize payouts average out to 58 percent in a 600 to 1 game. (The practice of cutting odds on heavily bet numbers reduces the long-term payouts slightly.) Runners customarily keep 25 percent of each bet, and controllers take another 5 percent. Police protection (according to trial testimony) also may take as much as 5 percent. Office costs account for at least another 2 percent. In all, the costs of a typical numbers operation exceed 94 percent, leaving some 5 percent net earnings.

The profitability of casino games is more difficult to calculate. These games do not involve commissions; the minimum profit is based on the percentage in favor of the house in any individual bet. The fixed percentage of a roulette bet is usually 5.26 percent; for blackjack, it is about 3 percent on the average; and for craps, 2 percent on the average. But these individual bet odds do not define the long-term take-out level for the house. That is determined by the way hundreds of players make thousands of bets over time. Nevada casino experience has produced these rough expectancies: a craps game will usually keep 18 percent of the amount "dropped," blackjack 22 percent, and roulette 33 percent.

The total "drop" in Nevada in 1972, that is, the amount spent on chips or put into slot machines (known elsewhere as the handle), was around \$3.2 billion. The casinos paid out about four-fifths of this money in prizes to the players, retaining about one-fifth. From this amount they subtracted the considerable overhead costs of casino operation. Subsidies for entertainment and giveaways are very large, and casino operators — the croupiers, stickmen, and pit bosses — are skilled, highly paid professionals. Illegal operations must also pay the additional costs of assuring police protection. Unlike sports and numbers players, casino bettors are themselves criminally vulnerable in some jurisdictions. In all, costs eat up at least half, and perhaps as much as two-thirds, of gross profits, leaving the operator a net profit of around 8 percent.

The net profit levels for the various illegal games are estimated at \$170 million from casino games; \$600 million from off-track betting; \$270 million from numbers (assuming a mix of 600 to 1 and 500 to 1 games); and about \$550 million from sports betting (assuming some cost economies in joint horse racing-sports betting operations). In all, operators of the major illegal games clear slightly more than \$2 billion a year in net profits — about double the amount the states receive each year from legal gambling. If the states captured every cent of these profits, they would be enriched by 1.3 percent of their current revenue level.

Capturing Illegal Revenue

In the race for gambling revenue, any legal game, whether it is a state-run enterprise or a private operation licensed by the state, enters the battle with serious competitive disadvantages. Illegal bookmakers and numbers sellers extend credit to bettors. They do not report winnings to the Internal Revenue Service (IRS). They provide convenient service; runners usually pick up bets and dispense payouts in the players' home neighborhood. Since the legal game offers none of these special amenities, it must offer instead higher payouts and better odds in order to compete for the current players' business. And the players of a legal game do have the certainty that they will receive their winnings, as well as what cheer they can derive from the consciousness that they are not engaging in illegal enterprise.

Sports betting. In the case of sports bookmaking, higher profits and better odds are difficult if not impossible to offer. Illegal bookmakers are remarkably efficient. If a legal bookmaker succeeded somehow in holding his pretax expenses below 5 percent, he would still run afoul of the 10 percent federal excise tax on all non-pari-mutuel receipts. And even without the excise tax, there is always the chance that the operation may lose money — at least in the short run. On some days, the bookmaker may be "middled" on his changing point spread, or he may have substantially more money wagered on winning teams than on losing teams. For the licensed private bookmaker, losing streaks would be unpleasant, but for the government operator, forced to cover losses out of general tax revenues, losing would be an intolerable embarrassment.

Some advocates of legislation therefore favor the institution of pari-mutuel betting on sports. This approach would eliminate the excise tax and avoid the possibility of losses. But it would also face some

serious competitive problems. The pari-mutuel game would take out some fixed percentage of receipts and then pay off at odds determined by the amount bet on each side. To prevent "minus" betting pools on mismatched contests, an equalizing point spread would presumably be declared when the pool opened. With only two betting options available in each pool, odds would be low, and the high cost of pari-mutuel operation — disguised when spread among a field of race horses — would be starkly apparent. Suppose, for example, that the takeout is 20 percent of receipts: 10 percent for expenses (the approximate New York OTB expense level) and 10 percent for the state. Suppose further that the point spreads succeed in drawing equal wagers for each team. The \$5 bettor then gets back \$8 on a winning bet — a profit of \$3; but he loses all \$5 on a bad bet. With a 10 percent takeout, the bettor still risks \$5 to make \$4. And if the betting were lopsided in favor of the winning team, the payoff would drop still further. It is inconceivable that the large sports bettor would forsake his tax-free bookie, and the assurance of a fixed payoff at \$5 for \$5.50 wagered, for this pari-mutuel game. The casual sports bettor might try the new game for a while, but the poor payouts would eventually dull his interest. Some bettors, of course, would stay with the pari-mutuel system, excited more by the thrill of winning a bet than by the amount of the winnings. Others, their gambling appetites whetted, might become new customers for the illegal bookmakers. To make such a pari-mutuel pool competitive with the standard 11 to 10 odds offered by bookmakers, the takeout must be 4.5 percent. But this low takeout would probably not meet expenses and would be still less likely to provide profit. (Success in such an operation would be due, if it occurred, to the large size of sports bets relative to horse racing bets.)

Sports card betting. The Fund for the City of New York²⁸ gives statistics on both the betting habits of sports card players and the ratio of sports card betting to regular sports betting with bookmakers. Table 6 shows that, although only \$1.25 billion is wagered on sports cards, whereas \$13 billion is wagered on individual sports events, the gross takes are comparable. The bookmakers' take on individual sports events is estimated to average about 4.5 percent compared to a take on sports cards of about 55 percent. Thus, the sports card business, far from being "small time" or unimportant compared to sports bookmaking, must be regarded as a major form of illegal gambling.

Sports cards are an ideal form of gambling for legalization, because they do not involve large bets and they do provide substantial enter-

tainment value for many people. A legalized operation could provide about one-third better odds than the present illegal cards and still make a modest profit. The 10 percent federal excise tax would seem to apply, and could be paid — although methods of exemption could be researched. The amounts wagered on sports cards are not large enough to cause the concern shown by the sporting fraternity with regard to legalization of conventional sports bookmaking. Moreover, if sports cards were legal, many of the smaller players who now bet on individual sporting events with bookmakers might well switch to them.

Numbers. With its high gross profits and its extensive contacts with organized crime, the numbers game is a vulnerable and appropriate target for legal competition. A legal game could easily increase the payouts and reduce the inflated personnel costs that characterize the illegal game, because it would not incur police protection costs and could probably cut the 25 percent runners' commission, which is partly dangerous-duty pay. One independent study has estimated that a legal numbers game in New York City, offering odds of 825 to 1, could still net seven cents on the dollar after expenses, as opposed to the illegal game's five and a half cents.²⁹

A government-operated numbers game could avoid the federal excise tax by basing one or more of the winning digits on the results of a horse race. And with bets vended in twenty-five cent units, even at increased odds of 800 to 1, winning payoffs would fall well below the \$600 IRS reporting level. If a player bought several winning twenty-five cent tickets, he could simply cash them separately.

One intangible but important limitation on a legal game's competitiveness is the predictable resistance of black and Puerto Rican residents to government interference in an enterprise long perceived as a community undertaking. The numbers runner is a man of considerable neighborhood reputation in ghetto areas. The publicity for a legal numbers game should therefore point out how much more of the new game's receipts will remain in the area, both as larger prizes and as salaries for the game's local employees. The government might have the game run by nonprofit contractors — community residents who would oversee the collection of tickets and the payoff of winnings. But state governments should not treat legal numbers as a new local subsidy and use it as an excuse to cut back other aid programs.

Table 7 presents estimates of the total gambling handles and revenues that might result from the legalization of all forms of gambling in all states. Since, in the foreseeable future, all states will not legalize

FUTURE POTENTIAL LEGAL GAMBLING REVENUES¹
(In Billions of 1973 Dollars)

Table 7

	Handle	Gross Take	Government Revenues
Racing (on-track)	11.00	2.00	1.0
Off-Track Betting	11.00	2.00	1.0
Lotteries	2.50	1.20	1.0
Numbers	4.00	1.00	.5
Casinos	36.00	7.20	1.8
Sports Betting	33.00	2.00	1.0
Bingo ²	2.00	1.00	.5
Cards ³	—	.80	.2
Slot Machines ³	4.00	1.00	.5
Total	103.50	18.2	7.5

¹ There might also be a sizable amount of illegal gambling in the future.

² Excluding games operated by churches or charities.

³ Other than in casinos.

Source: Jess Marcus and Henry Rowen, "How Many Games in Town?—The Pros and Cons of Legalized Gambling," *The Public Interest*, No. 36, Summer 1974, p. 38. Estimates originally prepared by the authors for a working paper commissioned by the Twentieth Century Fund.

all forms of gambling, these estimates represent upper limits, but they may be useful, if we assume, for example, that perhaps one-half of the maximum might be achieved in ten years if the legalization process continues at its present pace. If our estimates are correct, then legal gambling may generate at most \$4–\$5 billion in additional government revenues ten years from now. This amount would constitute only about 2.5 percent of total state and local revenues. Last year, the federal government presented the states with an outright gift of some \$5 billion as part of its revenue sharing program.

III / Gambling, Crime, and Corruption

A number of illegal gambling operations are affiliated with large, diversified criminal syndicates. This alliance is mutually beneficial. Bookmakers and numbers operators need illicit services that only organized crime can provide: layoff banking and large, no-collateral loans, multilevel protection from the law, and security from competing operators in the same territory. In return, gambling in some communities supplies organized crime with a large, steady source of income that, according to some observers, provides the initial investment for many large narcotic rings.

Gambling payrolls support petty criminals who spend their off hours on sporadic felonious enterprises like hijacking. Gambling losers often turn to loan sharks or larcenous pursuits to pay their debts. And gambling winners, denied access to the courts in collecting gambling debts, sometimes use strong-arm tactics.

To protect its gambling income, organized crime spends millions of dollars bribing and suborning law enforcement officials. The pattern of corruption varies, but the practice is pervasive. Numbers runners, whose activities are conspicuous and notorious, buy protection from uniformed

patrolmen. Bookmakers and controllers establish "pads" — a system of regular, fixed fees — for detectives and plainclothes forces. Numbers bankers and casino game operators pay upper-echelon officials for tip-offs on police raids. Tainted payments are also made to judges, district attorneys, and state legislators — sometimes as campaign contributions but often as direct disbursements. There is "strong evidence," as Robert Kennedy told a Senate Subcommittee in 1962, that major public officials in communities in the South, East, and West "are on the payroll of big-time gamblers."³⁰

The mechanics of gambling graft are complex, varying from city to city and sometimes from precinct to precinct. The 1971 hearings of New York City's Commission to Investigate Alleged Police Corruption (Knapp Commission) produced testimony describing an elaborate and highly lucrative system of payoffs. Each division amasses a "pad" — a pool of money contributed by gambling operators within the precinct. Each participating officer — in some divisions, according to commission witnesses, the participation reaches 100 percent — takes home a monthly share or "nut" of the pad. Individual officers arrange "scores" or private payoffs with gambling operators who are not contributing to the pad.³¹

The size of a patrolman's nut varies, as Patrolman William R. Phillips testified to the Knapp Commission:

- Q. To your knowledge, what is the size of the nut in the first division?
 A. The nut in the first division is \$1,100 per patrolman per month.
 Q. And in the 3rd division?
 A. The 3rd division, it runs around \$400 to \$500.
 Q. 4th division?
 A. \$400 per month in the 4th division.
 Q. And the 5th division, in the upper West Side?
 A. The 5th division is \$800 per month.
 Q. And in the 6th division?
 A. The recent information on the 6th division is about \$1,500 per month per man.

The same witness, a former police officer, went on to describe an ascending hierarchy of graft takers, rising from the precinct to borough headquarters and embracing foot patrolmen, high officials, and even members of the judiciary. He recounted one episode where the arresting police officer and the trial judge got their signals crossed:

In this conversation, Patrolman_____ had told me about an arrest he had made, and he had written up a very strong affidavit for the individual.

He was on the stand, and he had word — excuse me, before he got on the stand he had word that there was a fix in the case with the judge. He got on the stand, and he testified, and he convicted the defendant.

When he was stepping down from the stand, he turned to the judge, and the judge told him, he says, "You owe me one."

And he says, "Well, I'll take care of that next time."³²

Money paid to protect gambling operations sometimes buys sanctuary for other criminal acts as well. A police officer who has a financial stake in preserving his corrupt gambling arrangement will ignore other activities involving gambling personnel or locations. In 1971, an underworld informer told the McClellan Committee that, financed by gambling pay-offs, organized crime leaders had "bought their way into police stations and state courts across the country."³³

In order to deprive organized crime of its gambling revenues, Congress has expanded the federal government's anti-gambling role by passing the 1968 Crime Control and Safe Streets Act and Title VIII of the 1970 Organized Crime Control Act. The former allows court-authorized telephone interceptions; the latter makes any gambling operation involving more than four people or having a gross daily income of more than \$2,000 a federal violation.

Some experts maintain that this legislative response to the apparent need for more vigorous gambling enforcement is bound to fail. (In part because Congress is not convinced that the Federal Crime Acts will succeed, it has created the Commission on the Review of the National Policy Toward Gambling.) Organized gambling is so entrenched and operates through channels so complex that it is immune to traditional law-enforcement methods, and stern suppression efforts may only make matters worse.

The only answer, according to some organized crime experts, lies in changing the betting laws to establish a competitive legal game that would attract substantially all of the illegal game's customers. A total repeal would leave the market to the large, exploitative criminal organizations that would probably use violence to protect their monopoly privileges.

Unfortunately, the illegal games' enormous advantages of convenience, tax-free winnings, and easily available credit make their competitive position formidable. Legal games might actually help illegal operations by introducing new bettors to the challenges of gambling and steering them on to the illegal bookies. And the legal game itself would require police protection against illicit schemes, such as the recently alleged "fixing" of OTB superfecta betting in New York.

In fact, even advocates of legalization concede that no legal game is likely to defeat its illegal counterpart, unless it is accompanied by a new law enforcement commitment — with more police surveillance, more arrests, convictions, and sentences — to drive out illegal operators. In many sections of the country, that commitment is lacking, not only because of corruption but above all because neither the public nor local officials care a great deal about suppressing gambling. Many criminal court judges are openly troubled by the apparent hypocrisy of the gambling laws and are reluctant to enforce them. In 1970, the New York City courts disposed of nearly 10,000 gambling cases. Two-thirds were dismissed; all but ninety-six of the rest resulted in small fines. Similar court performances were recorded in other large cities.

Some advocates of legalization maintain that the institution of competing legal games would make it easier to rally public support for a campaign against illegal gambling. If those who wished to gamble had legitimate outlets, illegal gambling would appear to be nothing more than a major prop of organized crime. The public would expect police to make more gambling arrests, prosecutors to accept fewer reduced pleas, and judges to deal out much higher fines and an occasional prison term. Patrons of illegal gambling would no longer be perceived as innocent bystanders exercising their "natural right" to gamble but as deliberate subsidizers of organized crime. They could be required to testify before grand juries and their names could be released to the press and to the IRS and state tax agencies. Regulatory and tax law enforcement could also be stepped up. Closer cooperation between local police, who often know the identities of major bookmakers, and federal tax agents could be established. Enforcement of local business regulations also could add to the difficulty and cost of running a gambling enterprise.

To some idealists, this approach seems the most desirable way to deal with illegal gambling. But law enforcement officials from patrolmen to judge tend to treat gambling violations lightly and will probably continue to do so in the foreseeable future. And even if increased enforcement efforts could somehow be marshalled, they would only intensify the problems of corruption and bribery. The Knapp Commission, it is to be noted, recommended legalization rather than increased enforcement:

The criminal laws against gambling should be repealed. To the extent that the legislature deems that some control over gambling is appropriate, such regulation should be by civil rather than criminal process. The police should in any event be relieved from any responsibility for the enforcement of gambling laws or regulations.³⁴

Competing with Illegal Gambling

According to at least one study, numbers is "the best vehicle for an experiment to test the proposition that legalizing gambling can have an impact on organized crime and can, in the long run, help to reduce official corruption."³⁵ Sports bookmaking, on the other hand, is an unlikely vehicle for such an experiment. Its satisfied clientele, accustomed to 11 to 10 odds, tax-free winnings, and easy credit, would demand at least equivalent service from a legal operation. That demand could not so easily be met. On the other hand, sports bookmaking might be sorely damaged by vigorous law enforcement. The added costs of heavy fines, legal fees, and even higher protection payments, according to some claims, would quickly eat up the small profit margin and finally force a reduced payout. But the reduction would have to be appreciable to incite desertion among the heavy players. Although some bettors of small amounts might switch to a new game, their departure would have little effect on the large gambling operations.

Of the sports betting games, sports cards offer the best prospects for competitive success. Legal sellers could easily offer better payout odds, and the amounts wagered are so small that credit extension and unreported tax earnings are not terribly important to bettors. Of course, most law enforcement officials believe that sports card selling in many locales is only rarely linked to organized crime.

As for the competitive potential of off-track betting, an OTB-commissioned poll of New York's off-track players indicates that 40 percent previously bet with bookmakers and reduced their illegal betting after the introduction of OTB. Although law enforcement officials concede that OTB has taken a share of the illegal business, they think that most of its handle comes from a new, parallel market — former abstainers and occasional on-track bettors. The heavy off-track gamblers are staying with bookmakers who offer credit extensions and tax-free winnings.

This situation is doubly distressing from a public policy standpoint. The modest losses suffered by illegal enterprises have a negligible effect on organized crime and corruption. But the revenues raised by the addition of new players and an increase in the total volume of betting are the result of government promotion of one form of private personal consumption over others. The proper role of government in individual consumption decisions is a troubling but generally ignored question. Many states engage in liquor merchandising but do not promote its use; some of these same states have no hesitation about promoting gambling.

Legal casino gambling, too, would not necessarily reduce criminal profits from illegal games. Undoubtedly, legal casinos would attract

some individuals who now patronize illegal games. But the "non-Las Vegas" or "affluent" type of operation being discussed by some New York and New Jersey lawmakers — a small number of resort-area casinos with limited hours and formal or non-casual dress requirements — might not appeal to the big-city craps player, used to all-hours gambling in an informal atmosphere.

Moreover, many law enforcement officials doubt that a legal casino operation can be established free of criminal influence. In 1951, the Kefauver Committee asserted that: "The history of legalized gambling in Nevada and in other parts of the country gives no assurance that mobsters and racketeers can be converted into responsible businessmen through the simple process of obtaining state and local licenses for their gambling enterprises."³⁶ At that time, prominent racketeers owned many of Nevada's legal casinos. Bugsy Siegel had opened the Flamingo in 1946; Moe Dalitz of the Cleveland crime syndicate was co-owner of the Desert Inn; Meyer and Jake Lansky controlled the Thunderbird; Tony Stralla owned the Stardust; and New York mobster Frank Costello was linked to the Tropicana. The gross earnings tax was low, profits were high and climbing, and state regulation was almost totally ineffective.

The creation of the State Control Board in 1955 and the policy setting State Gaming Commission in 1959 brought a measure of reform; but, in 1966, FBI Director J. Edgar Hoover wrote that Nevada gambling still "occupies a position of importance in the scheme of organized crime and racketeering. Funds illegally skimmed [diverted to avoid taxation] from certain Nevada casinos have been used for a multitude of nefarious purposes."³⁷

The current debate over legal casino gambling has increasingly focused on the question of state versus private operation. Proponents of state-operated casinos, through the medium of a public benefit corporation, argue that such establishments will produce a greater percentage of profits for the state, make infiltration by criminal elements difficult, prevent corruption in the granting of private franchises, and be easier to police.

Advocates of private operation contend that state casinos will have limited public appeal and that the more popular private casinos will generate higher total revenues for the state.

Private casinos could offer several services that would be difficult, if not impossible, for state-operated casinos to provide:

Complimentary Services. One of the major attractions in Nevada casinos is the availability of free services including food, drinks, shows,

rooms and suites, and travel. Of course, management does not offer all these services to every customer but proportions them in accordance with the gambling habits of the individual player. Even the one dollar bettor receives an almost unlimited amount of free drinks at the tables. But the high roller who may lose thousands of dollars at a sitting can scarcely make a request or express a whim that the management will not strive to satisfy. Of course, none of these complimentary services are really "free"; they are all ultimately paid for from the gambling losses of the players.

Credit. Private casinos give a large amount of credit that helps business substantially. The ability to judge the credit risk that each player presents is a valued characteristic of casino managers and their staffs. Even through the medium of a public benefit corporation, state-operated casinos would find it difficult to manage a high-risk credit operation of this type.

Junkets. Almost all of the large casinos in Las Vegas sponsor junkets for high players from most of the large cities in the country. A large casino may have one or more junkets present at all times, and be in constant communication with junket operators all over the country who may be directly connected with the casinos. On these junkets, everything including the air transportation is complementary. If the junket operator or coordinator does a good job, he promotes a club-like camaraderie among the junketeers which adds, among other things, to the amount that the group as a whole is willing to gamble and to their willingness to return on future trips. The process of attracting junketeers who are willing to gamble and, above all, to pay when they lose, is very important. Many casinos have had bad experiences with junkets, but they have learned by trial and error and now turn large profits on junket promotions. A state-operated casino would be hard-pressed to put together and use junket and package deal programs as privately owned Nevada casinos do.

Entertainment. One of the important adjuncts of the large Las Vegas casino is its lavish entertainment. Each hotel casino complex has one large showroom as well as smaller lounge-type entertainment. The large showrooms boast top-flight entertainers. There is little doubt that these entertainment programs more than pay their way by increasing the gambling handle.

Private operation could take many forms. Nevada offers one model. That state does not restrict the number of privately operated casinos;

it does have reasonably strict licensing regulations but few restrictions on general operating conditions. Minors may not gamble; the games are regularly watched by state inspectors to prevent cheating; and each type of game must be specifically approved by the state. Within these rather broad limits, anything goes.

Great Britain provides another model of operation, mixing private ownership with extremely strict regulations. Until twelve years ago, when the 1960 Betting and Gaming Act was passed, *chemin-de-fer* was the only casino game permitted in England. Thereafter, casinos proliferated rapidly, reaching, by 1968, a total of more than one hundred in London alone, of which ten or more were quite large. Unfortunately, no clear line of public authority was responsible for casino regulation. As a result, many casinos were owned and controlled by foreigners with unsavory reputations, and violence became common as control of the many smaller casinos was contested. In 1968, the government passed the new Gaming Act, appointed a Gaming Board, and adopted strict licensing regulations.

Tight regulation followed, and almost all of the smaller casinos were forced to close. The survivors were closely supervised and forced to remove all foreigners from direct control of operations. Junkets which had brought large groups of tourists to gamble in Britain were forbidden, and all casinos were required to operate as private membership clubs. Today, any foreigner arriving in England and wishing to join a gambling club must register and wait forty-eight hours before his membership is approved. Clubs may be open only between 2:00 P.M. and 4:00 A.M. Casinos that have restaurants (and most do) are required to have a physical layout such that patrons of the restaurant do not go past the gaming tables when they enter.

The Gaming Act specifically prohibits casino advertisements, tips to croupiers, and gambling by casino employees. No liquor may be served to patrons in the casino area. The act also has shifted the odds on the games in favor of the player. Roulette wheels no longer have double zeroes, and several of the bets on the crap table that previously had very high percentages against the player have been changed to reduce these percentages. These very rigid controls and the vastly reduced number of casinos have cut back the volume of casino gambling in England substantially.

Puerto Rico provides another example of private casino operation with reasonably strict government control. The Commonwealth limits the hours of play and the amounts that can be bet on any game; and government inspectors are present in all casinos at all times. As a consequence, Puerto Rican casinos are not very competitive with the

easy-going operations to be found in the Bahamas and other Caribbean islands, which are widely believed to be controlled by "the mob."

Advocates of privately run casinos now favor a middle ground between the relatively wide open operations of Nevada and the highly regulated operations of England and Puerto Rico. They concede the need to restrict the number and location of casinos. And they agree that licensing regulations are necessary to keep organized crime out of the picture. Such regulations might include, for instance, awarding franchises only to already existing corporations of known ownership and control.

Some experts argue that any casino system, public or private, carries the risk of racketeer influence. Criminal organizations provide the loan sharks who have a large clientele in casino towns. Even with government ownership of casinos, police officials forecast an increase in such crimes as breaking and entering, burglary, and shylocking. Advocates of private management argue that all casino systems are vulnerable to criminal infiltration but that only privately operated casinos can generate high financial returns for the state. Advocates of state ownership often concede the stronger revenue potential of private casinos, but they maintain that government management can minimize criminal involvement.

Corruption and Legal Gambling

Gambling does not have to be illegal to result in official corruption. In the legal sector, the stakes are somewhat different—track licenses, extra racing days, state tax favors, authority to hold bingo games—but the public record raises serious questions about the ability of the political system to police the gambling industry. "Human frailties being what they are," a special New York Investigating Commission wrote in 1962, "it is difficult to predict whether the area of legalized gambling will ever be successfully administered and controlled."³⁸

The most publicized recent case of gambling-related bribery involved Federal Judge Otto Kerner, convicted in 1972 of accepting race track stock at far under market value, while he was serving as governor of Illinois. In exchange for the stock, Kerner and his codefendant, the chairman of the state racing board, influenced the designation of favorable racing dates for the conspiring tracks. It was not the first race scandal in Illinois history and certainly not the only one in recent national experience.

In 1970, a special auditor general's investigation of the Arizona horse and dog racing industry found "a pattern of interlocking relationships,

misleading and inadequate financial reporting, corrosive personal relationships, and potential conflicts of interest.”³⁹ In the same year, the attorney general of Florida charged the owners of the state’s three major tracks — Gulfstream, Tropical Park, and Hialeah — with making political contributions in violation of state law. Prosecutions were barred in that case by the statute of limitations. Bizarre racing scandals crop up periodically in the Middle Atlantic area. In the mid-1960s, charges of bribery over the licensing of New York’s Finger Lakes Race Track resulted in a lengthy grand jury investigation. This inquiry was diverted when a political county chairman and an upstate police chief were charged with bribing a detective to give them reports on the grand jury proceedings. In New Jersey, a local referendum approving construction of a new race track was defeated in 1966, when organized crime figures, allegedly miffed at their inability to buy an interest in the proposed track, electioneered against it. They hired black workers to canvass white residential areas with literature linking the new track to integrated housing programs.

Even bingo, with proceeds going exclusively to charitable organizations, has had its share of scandal. In 1962, a special New York investigating commission found that “evils have permeated all phases of the control and conduct of bingo at all levels.” The infiltration of bingo games by promoters and professional gamblers, bribery of public officials, and diversion of receipts to personal profit — all attended “this attempt by the community to legalize and control a gambling activity.”⁴⁰

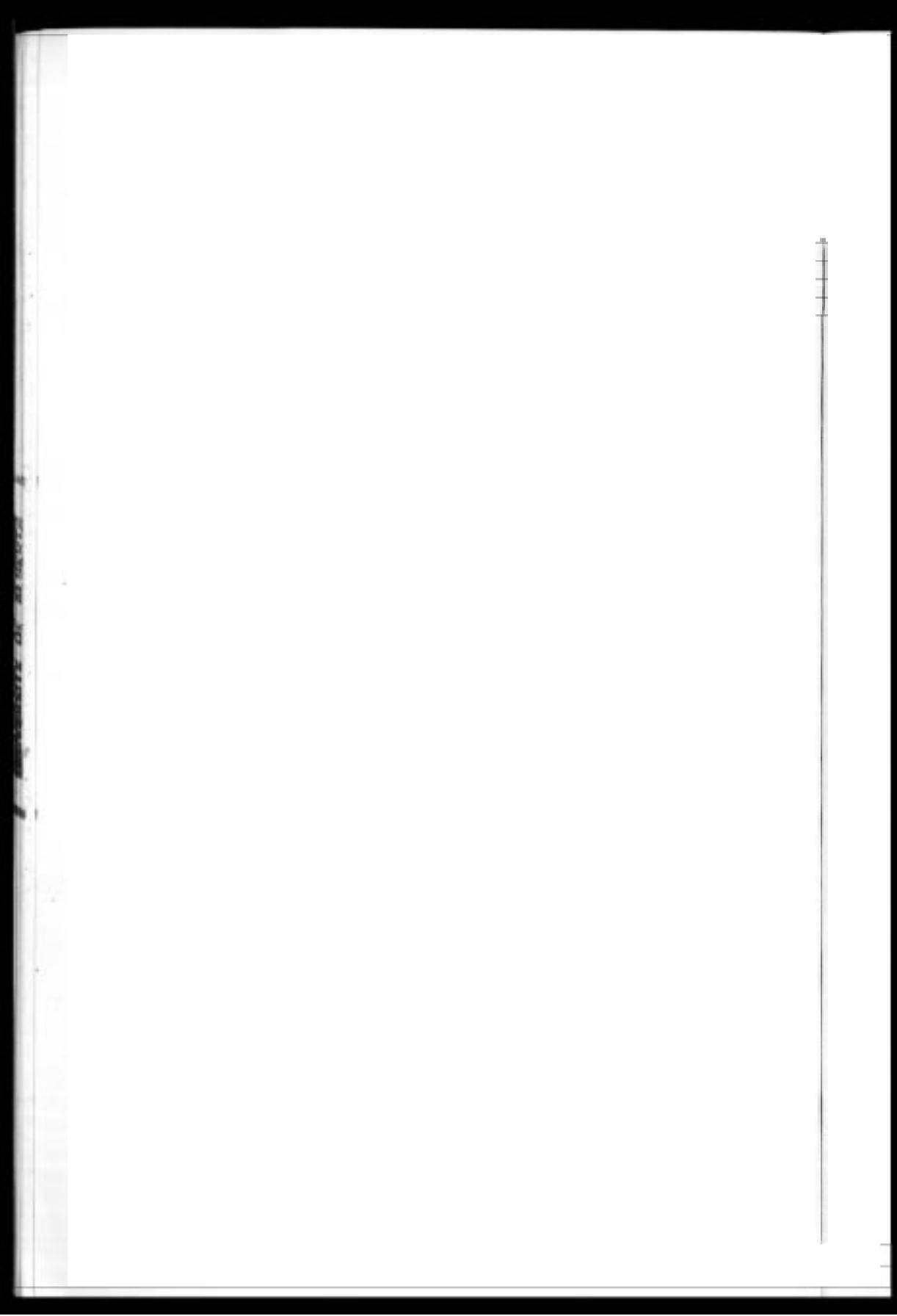
It is impossible to quantify the amount of government corruption associated with legal gambling, but its incidence is high — higher perhaps than in any other area of state regulation. One contributing factor may be the lack of strict procedural standards. Many government decisions affecting horse racing, for instance, have been made in private, without petitions, hearings, or public representation. The proceedings invite illicit interference as well as indifference to the interests of the consumer public.

Corruption and Sports Betting

According to professional league officials, the legalization of sports betting would encourage more fans to bet more money on athletic contests and increase the temptation to rig games and fix point totals. Moreover, suspicions of tampering would erode public confidence in games and “change the fundamental character of fan interest, by converting millions of fans into bettors preoccupied with cashing a bet and suspicious of the integrity of any player performance or coaching

decision that spells the difference between winning and losing the bet."⁴¹ The sports star would no longer be an American hero, and sports events would no longer serve as "healthy outlets" and "entertainment vehicles" for millions of fans.

Proponents of legalized sports betting think that organized sports officials are less concerned about the risk of tampering than about remote threats to the popularity and profitability of professional sports. And they doubt that the temptation to fix games could be any greater than it is now, with \$13 billion a year at stake.



IV / Social Costs of Legal Gambling

Few Americans still subscribe to the puritanical view that gambling is a sure passage to family and community ruin. Most seem to feel that, rather than suppressing the practice of gambling, government should regulate it, wrest it from the control of organized crime, and establish it as a legitimate, taxpaying enterprise. "A practice so ancient, so universal, so protean, so deepseated, and ineradicable," one psychologist has speculated, "must draw its strength not from a transient or superficial whim, but from something fundamental in the human psyche, biologically perhaps as well as culturally."⁴²

But several troubling questions remain about the possible effects of increased access to gambling on economic stability, work attitudes, compulsive gambling, concern for the dispossessed, and respect for the operations of government.

Compulsive Gambling

In the sparse literature on the psychology of gambling, a distinction is usually drawn between the social gambler, the individual who indulges

in gambling as an occasional diversion, and the compulsive gambler, the person whose gambling involvement transcends all other interests.⁴³ The latter is a chronic, heavy loser. He never learns from defeat. He repeatedly risks more than he can afford, with disastrous consequences for himself and his family. In the view of some psychiatrists, the compulsive gambler is a true neurotic, driven by unconscious aggression to a rebellion against moderation and morals, then tormented by feelings of guilt that he relieves by losing at the gambling tables.⁴⁴ The compulsive gambler wants to lose; he needs to lose in order to keep his psychological books in balance. According to some observers, this compulsion is latent in many of us and may emerge when the first legal betting parlor comes to town. But proponents of legalized gambling maintain that those who are inclined to gamble excessively have ample opportunity to do so now. They analogize legalization to the repeal of prohibition, arguing that more social drinkers may have been created, but few additional alcoholics. The impact of legal gambling on community mental health, they continue, is likely to be beneficial. They point to evidence that gambling serves conflict-resolving functions for casual players, that feelings of anxiety, tension, and aggression can be harmlessly projected into the games.

But opponents of legal gambling, including some spokesmen for Gamblers Anonymous (an organization of compulsive gamblers patterned after Alcoholics Anonymous), fear that compulsive gambling will spread with legalization, as thousands of people in whom the compulsion has lain dormant taste the thrill — the “pleasurable-painful tension” in psychologists’ jargon — of gambling for the first time. Once their appetites are whetted, government or government-licensed promoters will encourage them to indulge, to “seek fast relief from financial distress,” as one New Jersey lottery advertisement puts it.

The opponents of legal gambling point out that gambling has always had to be advertised and promoted. People must be persuaded to gamble, persuaded against their better financial judgment to overlook long odds and try for a once-in-a-lifetime killing. “The case for legalized gambling,” one critic says, “is, at bottom, simply an argument in favor of the government raising revenues by swindling its citizens rather than by taxing them.”⁴⁵ In short, the enemies of legalization regard epidemic addiction as a possibility and a large, stimulated increase in the ranks of the unaddicted gamblers as a certainty.

The writings of professional psychologists do little to resolve the differences between legalization advocates and opponents. Opinions on the motives of habitual gamblers vary widely. Most writers agree that,

for most gamblers, betting is not an instrumental activity directed toward an economic goal but rather an end in itself. Some psychologists think the urge to gamble reflects unresolved inner conflict and reaches the level of a compulsion for persons whose unresolved inner conflicts are most intense. These conflicts may arise in part from the frustrations and constraints of the capitalist economic system, frustrations that are most common in groups that find social and economic advancement blocked. In poker and other strategy games, competition and aggression may be present as motivations. The games become arenas for sublimated combat, appealing especially to socially competitive groups. For anxiety-prone individuals, gambling provides an opportunity to minimize anxiety about failure by participation in a game of pure chance where failure is peculiarly noninvidious. Other theories — and there are many — trace the gambling urge to influences varying from religious yearnings to the month of birth.

Commentators agree that the compulsive gambler, like the alcoholic, is useless to society. They agree further that society would suffer if gambling became a major preoccupation of much of the population. Some psychologists deny that legal gambling would be a voluntary tax. They maintain that certain games attract certain groups of players — groups skilled psychologists can define and, up to a point, mold. The players are not true volunteers; they are responding to advertisements and prize structures that appeal to some persons but leave others unmoved. The time will come, one leading behaviorist thinks, when bureaucrats, guided by psychologists, can design gambling systems aimed at precise social groups and guaranteed to attract a certain percentage of disposable personal income. The games may not create more than a few truly compulsive gamblers, but they will certainly stimulate something more than social gambling among the targeted players. Government agencies bent on self-perpetuation will manipulate the betting habits of these players in order to make gambling “work” as a revenue maker. Witness the early efforts of lottery commissions, continually adjusting prize lists, ticket prices, and drawing dates, trying to find a winning formula, a way to attract and retain new players. These trial-and-error efforts, some psychologists think, signal the beginning of a new technology — behavior modification by government persuasion.

Gambling and the American Economy

Gambling makes an awkward appearance in capitalist societies. Its get-rich-quick appeal appears to mock capitalism's core values: disciplined work habits, thrift, prudence, adherence to routine, and the

relationship between effort and reward. At the same time, betting bears a disquieting resemblance to transactions on the stock market, characterized by boldness, daring, and willingness to take risks. Economists are usually anxious to distinguish between stock speculation, which they call functionally useful and legitimate, and pure gambling, which they describe as dysfunctional and wasteful. When market speculation itself gets out of hand, with obvious dysfunctional consequences, the blame is placed not on businessmen but on "gamblers" who have somehow invaded the stock exchange. The distinction is lost on many observers, to whom gambling is a familiar but widely disapproved feature of our financial system.

Optimistic analysts argue that legal gambling provides a healthy outlet for potentially harmful speculative tendencies that might otherwise be unloosed in the market place; pessimists maintain that widespread gambling will undermine rigorous work habits and traditional family commitments.

There is little empirical evidence to support either contention. The legalization of football pools and off-track betting shops in England had not, as yet, had a clear-cut effect on either stock transactions or work routines. But the Church's Council on Gambling, led by the Reverend Gordon E. Moody, believes that gambling is having a demonstrably bad effect on the British population. The council is completing an extensive three-year study documenting this point of view. A preliminary report predating the study is now available.⁴⁶ In some communities in the United States, interest in lotteries apparently reached craze proportions in the nineteenth century. More recent studies indicate that local businesses suffer during the racing seasons at nearby tracks; job absenteeism, defaults on installment payments, and petty crimes increase.⁴⁷ Critics point out that permissive attitudes toward gambling have prevailed in those parts of the world where capitalism has been slowest in developing. But the proponents of legalization respond that sports betting is legal in Sweden, England, and several socialist countries; off-track betting flourishes in Australia, New Zealand, France, England, and Japan; and casino gambling is available in many European and South American countries as well as countries throughout the Caribbean — all without adverse effects on the respective economic systems.

Opponents of legalization also maintain that gambling would be a sharply regressive revenue device, increasing the distance between society's haves and have-nots. "Legalized gambling is the greatest form of regressive taxation that can be imposed on people," one senior Congressman claims; "It socks the poor and lets the rich — who do their gambling in stocks — off the hook."⁴⁸ But the administrators of new

public gambling agencies have conducted customer surveys showing that most OTB and lottery players are high on the socio-economic scale. "Our studies," former OTB President Howard Samuels claims, indicate that "the poor are not betting their welfare checks. Our customers are people who can afford to pay."⁴⁹

But numbers and sports bettors, in many cases, cannot afford to pay. Numbers, in fact is sometimes called "the ghetto's stock market." But gambling advocates maintain that legalization would represent a consumer-protection measure, offering fairer payouts to an already established betting clientele.

Gambling and Public Ethics

Even if our economy survives the onset of legal gambling, according to some observers, our respect for government may not, if the same government that encourages its citizens to work hard, save their money, and honor their family responsibilities begins urging them to risk their wages on gambling bets.

Once it sets out to make gambling a profitable business, the argument runs, government will inevitably proclaim gambling a good thing, a way to have fun while helping the government. But in reality, payoffs will always be less than true odds, and most players will lose their money. Stripped of its theatrical trappings, gambling is nothing more than a consumer swindle. Even with willing victims, government still is not justified in embarking on the swindling business.

The defenders of legal gambling argue that legalization will not make a Las Vegas of every state or place a gambling ad on every billboard; rather, it will give rise to a system of regulated "petty gambling," selected games where moderate betting is encouraged, as an alternative to betting with illegal bookmakers. But opponents are certain that government agencies will quickly lose all restraint. They fear that gambling agencies, swept along, as all bureaucracies are, by the urge to survive and expand, will press for new games, new promotions, and new profits, and that they will be encouraged by a growing company of elected officials, anxious to avoid new state taxes. In fact, this argument runs, the deceptive politics of the legalization question makes the relentless growth of legal gambling almost inevitable. Opinion polls show that a significant number of voters equate legal gambling with tax relief and they support various betting proposals on that basis. A survey of New Jersey residents, for instance, revealed that 36 percent expected legalization of gambling to be accompanied by a tax reduction.⁵⁰ Of that number, 77 percent favored legal off-track betting, 67 percent supported legal sports betting, and 70 percent wanted casino gambling. (With

this group removed from the polling sample, off-track betting attracts only 50 percent support; sports and casino gambling are opposed by a majority surveyed.) Critics fear that, in order to satisfy the revenue expectations of this constituency, state gambling agencies will try to devise new modes of gambling, increase stakes, and imbue more people with dreams of a betting windfall. According to one political economist:

The real significance of the lottery and other forms of publicly sponsored gambling lies not in the revenue but in the change it signifies in our national conception of the nature and functions of government. Government sponsorship and encouragement of any form of private consumption, especially those widely held to be deserving of disapprobation, seem to me to be dubious public policy. It may be that the fiscal crisis of the states, in leading legislatures to cast about desperately to find forms of sin in which a state monopoly can be established, will bring about a fundamental alteration in our traditional views of the relation of government to the private economy. Future textbooks in political science and public sector economics may have to add a section to the chapter on public goods theory explaining why government produces such services as lotteries and off-track betting.⁵¹

Once the precedent is set, the writer continues, and gambling is converted from an illegal activity into an object of public promotion, other lucrative areas may follow — state monopolies in marijuana distribution or state houses of prostitution.

Selective Legalization and Law Enforcement

On one point, gambling opponents have marshalled strong empirical evidence to complement their theoretical case. Selective legalization, they claim, must weaken the public will to enforce the remaining gambling laws. Every time a state sanctions a new game, it makes all the other games more acceptable, both to the public and to the law enforcement sector. Convictions decline, corrupt “deals” increase, and organized crime — far from being hurt by the legal competition — may actually be enriched with the initiation of new players.

But those who favor selective legalization think it can dispel some of the hypocrisy of anti-gambling enforcement. Once legal games are available for those bent on gambling, illicit operations can be suppressed, not because they are morally offensive but because they are instruments of organized crime. Partial legalization can stimulate a more aggressive, more broadly supported enforcement effort than any yet attempted.

Although this strategy seems plausible, no state has seriously undertaken both partial legalization and combative gambling enforcement. States that have launched legal lotteries and off-track betting have not sounded the call for sterner enforcement, more arrests, tougher sentences. They have merely expressed hope that illegal gambling will suffer, that competition will eliminate the need for strong law enforcement. Crime experts, as a result, are skeptical of the impact of legal games; and the public, asked to support the local lottery while it pays for the prosecution and rehabilitation of gambling operators, is confused and impatient.

The Nevada Experience⁵²

Nevada has legalized almost all of the major forms of gambling; indeed, it has turned gambling into the largest single industry in the state, producing some 43 percent of the state budget in the form of taxes. Nevada's experience may provide some indication of the impact of widespread legalization in the United States.

But Nevada, and particularly Las Vegas, is unique. No other place in the world offers such a concentration of round-the-clock drinking, gambling, and entertainment. Las Vegas is isolated; it is primarily a resort, with a lot of promotion throughout the country. It also is a haven for well-to-do couples seeking a quick divorce.

Las Vegas has grown with extraordinary speed. Between 1960 and 1970, the population more than doubled, while other western states grew only 24 percent in the same period. The county attracts some 16 million visitors each year. All these factors seem conducive to an atmosphere in which individuals feel anonymous and deprived of stable relationships and institutions with which they can easily identify. Residents in such a community might be expected to show a high level of individual disorientation.

In fact, Las Vegas has a very high rate, compared to the nation as a whole, of homicides, forcible rapes, burglary, and larceny. Yet these rates are quite comparable to those of other western states and to those in Florida resort areas such as Miami, West Palm Beach, and Daytona Beach.

The suicide rate for Las Vegas is twice the national rate and high even when compared to that in other western states and resort areas. Part of the explanation may be that Nevada counts as residents individuals who have been living in the state for only six weeks. This method of calculation increases the population base. Many persons take short-term residence in Nevada for divorce purposes; most of the recorded suicides probably come from this group.

Statistics on alcoholism are difficult to come by, and the criteria for alcoholism differ from state to state. Nevada ranks second to New York in deaths caused by cirrhosis of the liver, and a 1960 study showed Nevada ranking third behind New York and California in the rate of alcoholism. The high alcoholism rate probably does not result from the availability of gambling per se; a compulsive gambler is likely to begrudge the money required for drinking. More likely, the high alcoholism rate is the result of two factors: the bars and entertainments operate twenty-four hours a day, and many of those who come to Nevada to work in the gambling and entertainment industries bring with them histories of financial and marital failure.

In short, the availability of gambling in Las Vegas is not clearly responsible for Nevada's social problems. These problems seem more closely linked to the special role of Las Vegas as the entertainment activity capital of the country, attracting many people who have only a minor interest in gambling itself. It is not possible to be definitive on this matter, but the evidence favors this position.

V / Federal Gambling Law

For the first century of this country's existence, gambling was a state problem; its legal status was a question for the various legislatures, its regulation a matter for local courts and police. Only after the sudden collapse of the notorious Louisiana lottery, in 1890, did the federal government enter the anti-gambling business. "The people of all the states are debauched and defrauded," an indignant President Harrison wrote to Congress. "The national capitol has become a sub-headquarters of the Louisiana Lottery Company." Harrison demanded and received legislation barring the use of the mails for lottery-related materials. This modest prohibition was followed, five years later, by a ban on all interstate traffic in gambling materials and, some seventy-five years later, by an embargo on all radio and television broadcasts of gambling information.

In the 1950s, Congress declared that control of illegal gambling by organized crime had become a major federal concern and, in a series of Revenue and Crime Control Acts, expanded the government's anti-gambling activities. The first federal gambling regulation imposed a special occupational tax of \$50 per year on "each person who is engaged

in the business of accepting wagers" and required such persons to register with the district director of the Internal Revenue Service (IRS) and to obtain and display an occupational tax stamp. The tax was widely ignored, and, since it exposed the complying bookmaker to state criminal prosecution, the U.S. Supreme Court eventually struck it down as an infringement on the right to avoid self-incrimination.⁵³ By then, Congress had outlawed the use of telephone or telegraph facilities for the transmission of bets or gambling information, provided penalties of up to \$10,000 in fines or five years in jail for violators, and prohibited the use of interstate commerce facilities to distribute the profits of illegal gambling operations. In 1970, Congress gave the federal government jurisdiction over large gambling operations even if their operations did not cross state lines. Title VII of the Organized Crime Control Act instructed federal prosecutors to act against any operation that involves at least five persons who have been in business for thirty days and have handled bets averaging \$2,000 a day. The law also made it a federal crime for a policeman or state official to assist or protect a gambling operation.

More important than these criminal statutes, at least for the states considering legalization, are two long-standing provisions of the Internal Revenue Code. The first imposes on any person engaged in the business of accepting wagers an excise tax of 10 percent on all such wagers. (The law specifically exempts bets "placed in a wagering pool conducted by a pari-mutuel wagering enterprise licensed under state law.") The second important feature of the Code is that it treats gambling winnings as taxable income. Winners must report their proceeds, and the gambling operation must report to the IRS whenever payoffs of \$600 or more, at odds of 299 to 1 or more, are made.

The IRS reporting law requires both player and operator to file information forms detailing the amount of the winning. No tax is collected at the time that the forms are filed, but the winner is then on record and will be easily caught up with, if he fails to report the amount won on his next income tax return. Gambling losses are subtractable from winnings, and the player may still not be liable for any net tax on gambling winnings. But in such cases, the IRS often requires reasonable proof of compensating gambling losses so reported.

The thirteen lottery states, as well as the states currently studying off-track betting, numbers, and sports wagering, are understandably disturbed by the scope of federal gambling law. Although most of the legislation was designed to suppress illegal gambling, it applies equally to legal operations. State lottery commissions can neither sell tickets nor

notify winners by mail. They cannot advertise over television or radio. Their newspaper promotions can only appear in special editions that do not circulate beyond state borders. The lotteries have found a technical sanctuary from the federal excise tax in the pari-mutuel exemption. Lottery winnings of more than \$600 are reported to the IRS, as are similar payoffs at OTB windows if the odds involved in the payoff are greater than 299 to 1.

The federal government has been somewhat hesitant about enforcement of the \$600 and 299 to 1 odds IRS reporting statute in Nevada. About six years ago, a reporting scale for the game of keno was devised, and it has been generally enforced since then. This foray caused great trepidation among casino owners, who feared it was only the opening wedge of a larger campaign, but no other enforcement measures have been implemented.

Nevertheless, these federal specifications inhibit legal gambling. They eliminate advertising opportunities. They threaten all except pari-mutuel games with the imposition of a clearly punitive excise tax. And they saddle legal games with the burden of compliance with federal income tax laws that their illegal competitors can ignore. The federal statutes limit the ability of the states to fashion and pursue independent gambling policies. Laws which were intended to break the link between gambling and racketeering are now protecting the rackets from effective legal competition. These federal laws, as many agree and as the U.S. attorney general's recent actions indicate, are due for an overhaul in light of the growing state interest in gambling legalization.

Federal Tax Law

The excise tax on wagers is a deterrent measure, requiring the potential gambling manager either to pay a prohibitive additional cost or to risk federal prosecution. The games that are exempt from its provisions are simply those that were legal when it was enacted. In exempting pari-mutuel pools, for example, Congress was not expressing an ethical preference for pari-mutuel as opposed to fixed-odds or some other betting pool system; it was distinguishing publicly licensed legal games from the unlawful and undesirable variety. The appearance of state lotteries and OTB systems, and the possible emergence of other legal games, has made the exemption only of pari-mutuel games obsolete. It has led to a lot of silly technical maneuvering by the lottery states, and it is bound to produce more legal contortions as other legal games are introduced.

It is hard to discern a reason why federal tax law should not treat all forms of legal gambling alike. Legalization opponents may argue that a limited exemption is good national policy. It slows the rush to legalization, making the states think twice about gambling's dollar benefits. But in fact, the pari-mutuel exemption is rather easily attained — except in the hypothetical case of legal, fixed-odds sports betting. It is an annoyance more than a hindrance — and it should be neither. The government has not considered national policy on legalization, and legislators are not in agreement that the federal government should — or can — intervene in state deliberations on gambling. Without such agreement, laws like the wagering excise tax are arbitrary, senseless, and deserving of quick amendment.

A more difficult tax issue is the treatment of winnings. Because net earnings are taxable, many steady gamblers stay away from the new legal games. Legalization advocates think that the British government's policy of not taxing winnings is wise. In any gambling operation, total losses always exceed winnings. Few players are net winners over a year; hardly any show a lifetime gain. As a class, bettors show a net loss. But they are taxed individually, and the minority who comply with the reporting laws must keep records of winnings and losses and pay taxes on their annual good fortune. The result is a very small addition to the federal treasury but a very substantial disincentive to patronizing legal games. Excluding all gambling winnings would be simpler, more convenient, and perhaps more equitable; today's gambler cannot deduct betting losses from other income after a losing year, but he must include winnings with other taxable income in a good year.

What about the big winner — the lottery "millionaire" or the six-figure *superfecta* ticket-holder? Their onetime winnings may well exceed lifetime losses. Shouldn't these windfalls be taxed? Lottery officials point out that, although the number of such winners is very small, their symbolic value is enormous. Stories of their good luck attract more players — and more dollars — to the legal games. They would produce even more income if the winnings were tax free — much more income, some predict, than the federal government collects in taxing super prizes. Besides, lottery spokesmen continue, lottery winnings are more analogous to gifts or unsought honorific prizes — which are exempt from the income tax — than to wages or other kinds of taxable earnings.

The opponents of legalization, among others, are appalled at the suggestion that winnings go untaxed. If the return on so little labor is tax free, while hard-earned salaries are taxed to the hilt, government seems to be expressing approval of gambling while undermining the

incentive to work. But gambling proponents point out that patrons of the illegal games now enjoy a *de facto* tax break; the games do not report to the IRS and the winners seldom, if ever, report on their own. Only the players of legal public-benefit games are hit with the income tax. In short, the tax laws discriminate in favor of illegal gambling — a ridiculous situation that is a great deal more objectionable than the proposed exemption of all gambling income.

Not only will tax exemption take income away from organized crime, advocates say; it should also add money to the public treasury. Off-track wagering generates an estimated \$5 billion in illegal handle, very little of which presently goes to the government. The bookmakers evade both business and employee withholding taxes; the players ignore federal reporting requirements; and they all avoid state income levies. If the state-operated OTB parlor offered tax immunity on winnings, the argument runs, it could attract millions of dollars from the illegal market, retaining much of it as net profit. Whatever IRS lost in returns from scrupulous gamblers would be made up for many times over in the OTB takeout.

These arguments have had little effect thus far on federal legislators. Many are obviously reluctant to take sides on a question with such emotional impact. Others are puzzled not just about tax matters but about the proper role of the federal government in regulating the growth of legal gambling. And most are waiting for completion of the federal study on gambling before declaring themselves on any gambling-related legislation.

Interstate Transport of Gambling Information

State officials claim that restrictions on the advertising, broadcasting, and mailing of lottery materials reduce that game's revenues and increase its operating costs. They are probably correct. Certainly the postage constraints — neither tickets nor notices of winnings can be sent in the mails — make it difficult to attract out-of-state players. The nonresident clientele is further limited by the ban on transmitting advertisements across state boundaries. Several lottery states, notably New York, New Hampshire, and New Jersey, have turned to extensive billboard advertising, but their gambling commissions believe that the advertising ban causes very substantial revenue losses.

Though they publicly censure these federal restrictions, calling them pernicious intrusions in state matters, most lottery officials concede that the chances of repeal are slim. The federal government has, after all, a legitimate interest in preventing a lottery "race," a situation in

which states would be compelled to legalize the lottery, not because they are persuaded of its public merits but because their citizens were being enticed by mail and media to invest in some nearby lottery pool. The television, radio, and postal regulations do serve, whether by accident or by design, to protect reluctant states from a bombardment of gambling come-ons. They give cautious legislatures time to consider the costs and benefits of legal gambling.

Notes to Background Paper

- ¹Permanent Edict of the Urban Praetor, circa 129 A.D.
- ²*Gambling in America*, Editorial Research Report, 1972, p. 198.
- ³John Scarne, *Scarne's Complete Guide to Gambling* (New York: Simon & Schuster, 1961), pp. 134-137.
- ⁴26 U.S. Code, Section 4401.
- ⁵18 U.S. Code, Sections 1301-1304.
- ⁶*Report of the President's Commission on Law Enforcement and the Administration of Justice* (1967), Vol. 1, p. 189.
- ⁷*Gambling in America*, p. 199.
- ⁸Scarne, *op. cit.*, p. 130.
- ⁹*Ibid.*, p. 101.
- ¹⁰*Legal Gambling in New York: A Discussion of Numbers and Sports Betting*, Fund for the City of New York (1972), pp. 31-33.
- ¹¹Quoted by Stanley Penn, *The Wall Street Journal*, July 18, 1971.
- ¹²For an interesting analysis of the revenue potential of legal gambling see Frederic D. Stocker, "State Sponsored Gambling as a Source of Public Revenue," *National Tax Journal*, September 1972, p. 437.
- ¹³*The New York Times*, June 14, 1973, p. 67.
- ¹⁴*The New York Times*, December 2, 1971, p. 67.
- ¹⁵*Report of the Governor's Commission on the Future of Horse Racing in New York State* (1973), p. 118.
- ¹⁶*Ibid.*, p. 127.
- ¹⁷*Ibid.*
- ¹⁸*Gambling: A Source of State Revenue*, Council of State Governments (1973), p. 16.
- ¹⁹*Ibid.*, p. 31.
- ²⁰*Increased Legal Gambling in New York*, A Report by Hudson Institute to the New York State Gambling Commission (1973), Vol. 1, pp. 11-13.
- ²¹*Gambling: A Source of State Revenue*, p. 29.
- ²²Figures supplied by Nevada State Gaming Commission.

²³Testimony of Col. David E. Kelly, Superintendent, New Jersey State Police, before New Jersey Gambling Study Commission, December 6, 1972, p. 15.

²⁴Scarne, *op. cit.*

²⁵*Report of the President's Commission on Law Enforcement and the Administration of Justice* (1967).

²⁶For a good discussion of the economics of poolselling see *Legal Gambling in New York*, pp. 45-48.

²⁷Cited in Robert D. Herman, ed., *Gambling* (New York: Harper & Row, 1967).

²⁸Oliver Quayle and Co., "A Study of Betting on Sports in New York City," Fund for the City of New York (1972).

²⁹*Legal Gambling in New York*, pp. 55-68.

³⁰*The New York Times*, March 30, 1967, p. 16.

³¹*The Knapp Commission Report on Police Corruption* (New York: George Braziller, 1973), pp. 74-77.

³²Public hearings of the Commission to Investigate Alleged Police Corruption in New York City, October 20, 1971.

³³Testimony of Vincent C. Teresa before the Permanent Investigations Subcommittee of the Senate Government Operations Committee, July 27, 1971.

³⁴*The Knapp Commission Report*, p. 18.

³⁵*Legal Gambling in New York*, p. 54.

³⁶*Report of the Senate Special Committee to Investigate Crime in Interstate Commerce* (1951).

³⁷Quoted by Peter R. Kann, *The Wall Street Journal*, November 3, 1966.

³⁸*Bingo Control Inquiry: A Report to Nelson A. Rockefeller* (1962).

³⁹*The New York Times*, December 6, 1970, p. 43.

⁴⁰*An Investigation of Bingo in New York State: A Report by the New York State Commission of Investigation* (1961).

⁴¹"Position on Legalized Sports Gambling," The National Football League.

⁴²John Cohen, "The Nature of Gambling," *Scienza*, Vol. CV, 1970, p. 1.

⁴³For an excellent discussion of the literature on the psychology of gambling, see the article by Edward C. Devereux, Jr., in the *International Encyclopedia of the Social Sciences* (1968).

⁴⁴Edmund Bergler, *The Psychology of Gambling* (New York: Hill & Wang, 1957).

⁴⁵Irving Kristol, "Vice and Virtue in Las Vegas," *The Wall Street Journal*, September 13, 1973.

⁴⁶The Church's Council on Gambling, *The Facts About the Money Factories* (London, 1972).

⁴⁷See, e.g., *Report on Gambling by the New Jersey State Chamber of Commerce* (1939).

⁴⁸Representative Wright Patman in *Gambling in America*, p. 210.

⁴⁹Quoted by Steve Cady, *The New York Times*, September 29, 1971.

⁵⁰See 1973 Survey by the Eagleton Institute of Politics, as reported in *The Evening Times*, Trenton, New Jersey, April 18, 1973, p. 7.

⁵¹Frederic D. Stocker, *op. cit.*

⁵²The material in this section is based on an unpublished report on the effects of legalized gambling on community stability in the Las Vegas area, prepared for the Twentieth Century Fund by Philip Richardson.

⁵³*Marchetti v. U.S.*, 88 Sup. Ct. 697.

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