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# INCREASED LEGAL GAMBLING IN NEW YORK A Policy Analysis

VOLUME II

REPORT BY HUDSON INSTITUTE TO:  
THE NEW YORK STATE GAMBLING COMMISSION

JANUARY 12, 1973

Max Singer, Project Leader  
Basil Candela, Associate Project Leader



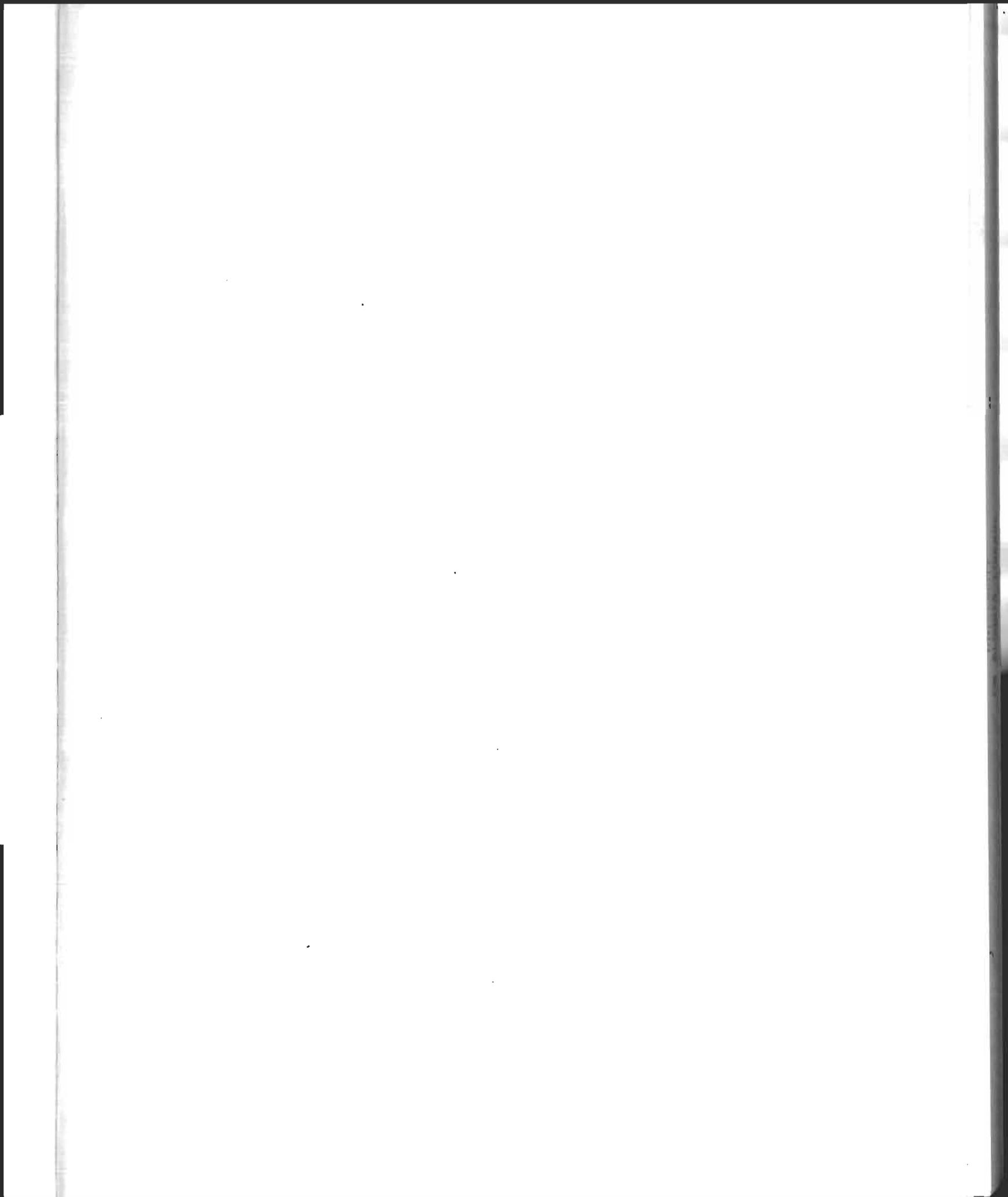
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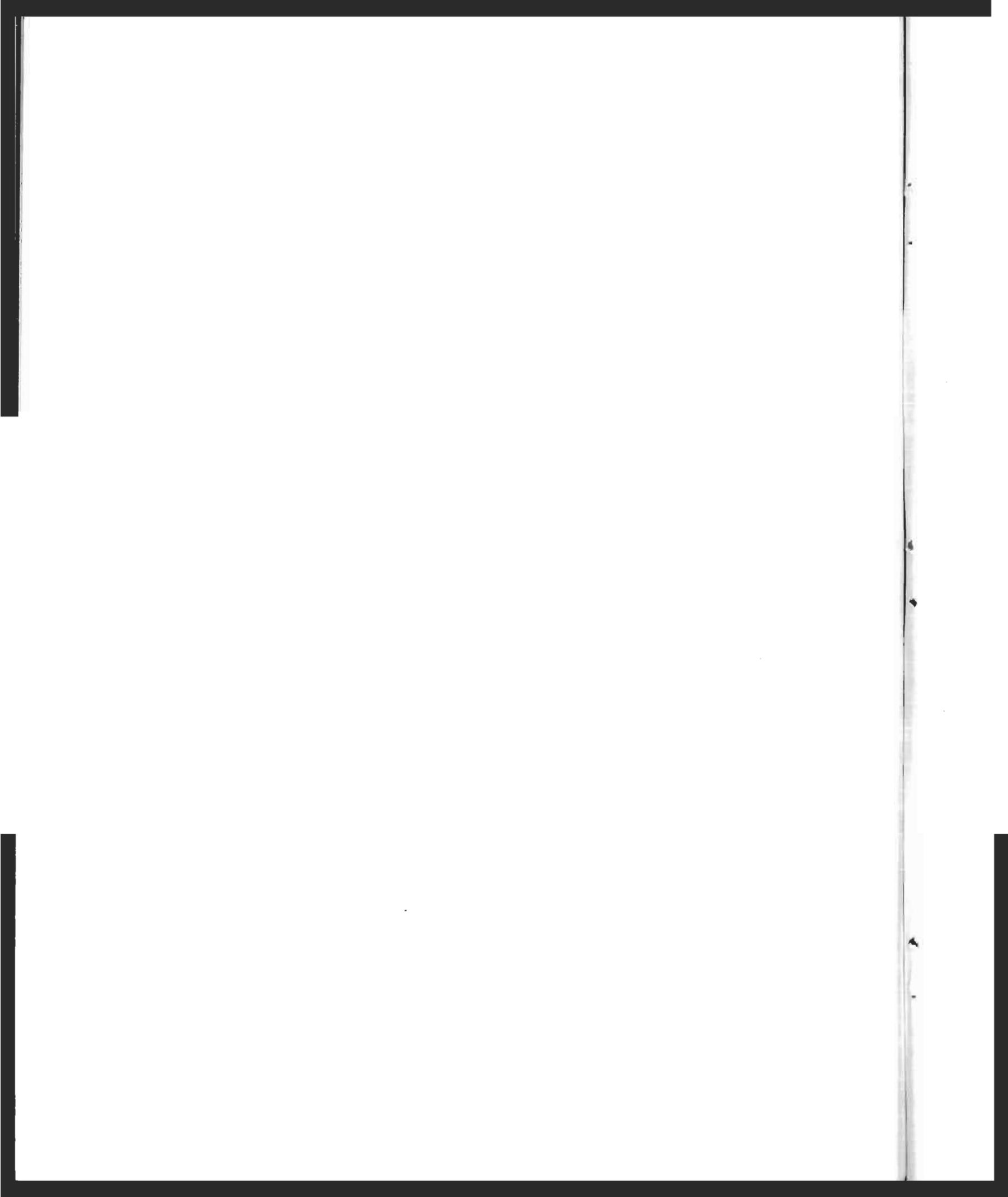
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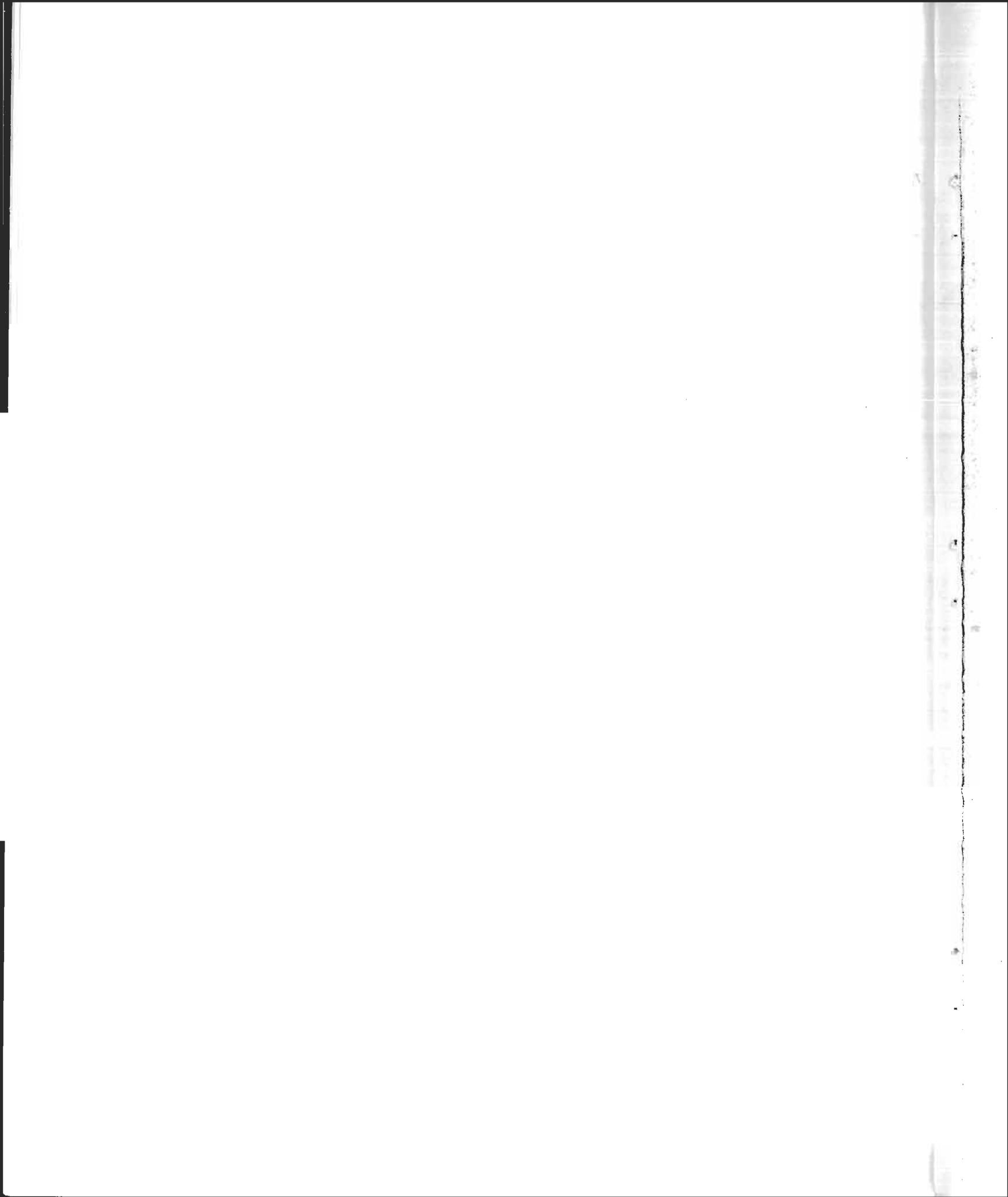
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During the course of the study we consulted a number of people, many of whom did not wish to be quoted or mentioned, but we would like to take this occasion to thank those who were helpful. They include "Jimmy" and "Mike" who taught us something about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

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## PREFACE

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

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

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

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

In this report we have made many estimates of criminal activities, including corruption. This study has not been an investigative study and we have no evidence that any individual is criminal or corrupt, much less sufficient evidence to indict or convict any one of a crime. Nevertheless, we believe that it is appropriate to give our best judgment about the extent of crime and corruption. The appropriate standards of proof and evidence are entirely different for policy judgments than they are for actions against individuals. If "everybody" knows that many policemen and some judges and district attorneys are corrupt, it would be foolish to act as if that were not true, merely because legal proof is not available. As with any other question, it is important to avoid and to take precautions against mistakes in either direction. One must make policy decisions knowing the facts only imperfectly, the best response to this is to hedge against uncertainty. We believe that the matters that we have described here as facts, with the qualifications that we have given, represent reasonable conclusions for a policy maker to use in thinking about the basic policy questions of strategy in this area now facing the State. It is not reasonable for somebody to challenge our statements by saying "can you prove it?" If this question is asked, the appropriate response by the policy maker is, "do you have a significantly different set of facts for which you think there is better evidence?" If the "facts" as we describe them are the most likely, on the basis of limited information available, that is, if no one can give reason for thinking that other facts are more likely, then these facts ought to be used as a basis for thinking through the problem.

## I. INTRODUCTION

The interaction of a small number of basic policy positions will determine most people's conclusions about the possibility of the extension of legalized gambling in New York State. In this introduction we will try to present these main points of view and indicate how we believe they lead to conclusions about the various major types of potential legal gambling in the State. In the body of the report we will go into some of the nuances and complexities, as well as providing factual and analytical material. While some of the nuances are critical for reaching sound policy judgments, we also think it is necessary to be able to talk in the more summary way presented in this introduction. **Broadly, three sets of concerns can be distinguished: the morality and social impact of gambling per se; the economic issues related to it including its revenue potential; and its impact on the criminal justice problem. (These concerns are outlined in the matrix shown at the end of the introduction.)**

### A. Gambling and Morality

People's moral attitudes about gambling can usefully be divided into the following categories:

- a. Gambling is as acceptable as any other recreational behavior. (Therefore it is desirable to increase the legal opportunities available for the gambling that people want to do.)
- b. Gambling is relatively innocuous, but corruption tends to accompany it. The State should have a monopoly of legal gambling in order to protect bettors and to appropriate the profits for socially useful purposes.
- c. Gambling is for various reasons tainted or undesirable behavior. It is not possible or not appropriate for the State to try to prevent it, but the State should prefer that there be less gambling rather than more.

- d. Gambling is pretty bad, but the important thing is not necessarily to minimize the amount of gambling, but to make certain that the State itself is not compromised by participating in the gambling, or profiting from it.
- e. Gambling is bad, and it is important for the State to do everything within reason to minimize the amount of gambling.

## B. Revenue

Opposition to the use of gambling as a way of raising money has three possible bases.

- a. Opposition, on moral grounds, to gambling or to the State involvement with gambling, and
- b. Belief that a disproportionate share of the money that will be raised from gambling will come from poor people, and thus that gambling taxes or profits are a "regressive" source of funds and therefore not a desirable component or addition to the State's revenue.
- c. A quite different objection to the use of gambling to raise money for the State is that it may conflict with the crime-fighting purposes of legalizing gambling. That is, maximizing profit and maximizing crime fighting may lead in slightly different directions.

In the report we discuss the potential revenue from gambling. There are many uncertainties and policy choices involved. The State cannot make a major dent in its budgetary problems by increasing legal gambling-- which now is producing over \$200,000,000 per year for the government, principally from race track betting--but a sizable increase, perhaps doubling or more, is possible. However, the amount of additional revenue depends on careful execution and the revenue may well have more disadvantage associated with it than it is worth.

## C. Fighting Organized Crime and Corruption

We do not need here to enter into a discussion of just how well-organized or nationwide, "organized crime" is. By "organized crime" we

mean groups of people who cooperate with each other in a group of enterprises, some of which are illegal, to such an extent that it is efficient for them to use political power and corruption of elements of the criminal justice system to protect their illegal businesses and to advance their legitimate ones. The functional threat to society comes from the putting together of enterprises in ways which are mutually supporting and which permit the effective use of corruption on a long-term basis. Some of the operations may be "victimless crimes" like gambling, prostitution, or usury; others are completely criminal such as extortion, hijacking, murder, arson, etc.; others such as trucking, restaurant supply services, etc. are inherently legitimate although perhaps tied into criminal operations or employing illegal business methods. A collection of such enterprises represents a much greater threat to society than individual or single-purpose criminal efforts.

Most important, organized crime can afford to manage the corruption of police, judges, and other elements of the criminal justice system in a massive and systematic way. Extensive and deep corruption of the criminal justice system by organized crime exists in a number of cities of this State. This corruption is a major impediment to more effective police operations in a number of areas beyond those directly affected. The corruption of the police interferes with their ability to gain community support and trust necessary to criminal law enforcement. Therefore, one of the major tasks in fighting crime of all kinds, especially street crime, is to attack corruption in the criminal justice system. In other words, we believe there would be good grounds for the New York State Legislature to design any legalization of gambling primarily as part of a program of fighting organized crime and corruption.

Illegal gambling is one of the most important factors in the success of organized crime as it now exists. It is likely to be the backbone of new organized crime groups that will develop. Gambling fits into organized crime in the following ways:

- a. It produces profits that are used to finance other enterprises, legal and illegal;
- b. It pays the overhead and justifies the establishment of a sizable organization which can be and is used for other illegal activities;
- c. It supports and to some extent justifies the corruption that protects other illegal activities and is one of the basic elements of power of organized crime.

Because gambling is a popular activity that many people feel is at most technically illegal, establishing corrupt relations to protect gambling is easier than protecting other crimes, but the corrupt relations established in connection with gambling very frequently spill over to other enterprises run by the corrupters.

We will discuss in Chapter V of this report how legal gambling might fit into an attack on the current problem of massive corruption and large profits for organized crime. Here we have tried only to describe the problem.

#### D. Other Issues

In addition to the general policy issues with respect to gambling, gambling revenue, and fighting organized crime and corruption, special issues are raised by particular types of gambling. Gambling on sporting events (other than horse racing, for which there is now legal gambling both on- and off-track) raises problems about possible bad effects on the sports. While illegal gambling already creates dangers to sports, some people oppose legal gambling on sports because the total volume of betting

would increase and because the State would become implicated in the difficult relationship between sports and betting.

Similarly, casinos raise special issues in some people's minds which are not raised by gambling per se. Casinos are special, to some degree, because:

- a. They are very visible (of course, OTB parlors are, too);
- b. Many bets near even money produce frequent wins by players, much rebetting, and fast action all which induce people to gamble more than they intended;
- c. There is little illegal casino gambling in the State today; and
- d. Experience indicates that even legal casinos often create a local environment conducive to a variety of illicit or shady enterprises.

On the other hand, some people would prefer a casino program to other forms of gambling because:

- a. They envisage a design which discourages the patronage of poor people;
- b. Casinos can be restricted in number and location, in order not to provide a daily temptation to large numbers of people;
- c. Casinos may help the resort industry and some local economies (to some extent, at the cost of others); and
- d. Some money New Yorkers now spend at out-of-state casinos would then be spent in the State and, at least temporarily, customers from other states might be attracted.

#### E. Existing Gambling

New York State currently has a great deal of gambling, most of it legal. Our estimates for commercial gambling are shown on the following page.

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

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

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

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

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

## II. THE NUMBERS BUSINESS

### A. The Existing Numbers Business

#### 1. General Description

Basically, the numbers (or "policy") game is a daily lottery in which the bettor selects a one, two, or three digit number, but basically three-digit numbers. A winning number is derived each day from some public source such as the payoffs at a race track or the U.S. Treasury balance. The winning numbers are paid at fixed odds (usually 500, 550, or 600 to 1 on a three-digit number).\*

In New York City the business is run roughly as follows (the organization in other cities is more or less similar). The bettor places his bet with a "runner," normally paying him in cash at the time of the bet, although there is sometimes provision for short-term credit. The runner keeps 25 percent of his total receipts and delivers 75 percent to a "controller" who handles from 5 to 50 runners. The controller records the numbers bet with an indication of which runner brought in the bet and then delivers his "work" (often in the form of one of a pair of matched adding machine tapes) to a policy "bank." The controller normally takes 10 percent of the original bet (or a little more than 13 percent of the money he receives). The controller and the runner take no risk of loss.

The policy bank receives the "work" from as many as a dozen or two dozen controllers. Out of its 65 percent of the money bet the bank pays off the winners, and pays all the cost of operations. (But usually some

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\*Two-digit numbers, either the first two numbers of the three-digit number, called "front end bolita," the last two digits of the full number, "back end bolita," pay off at 60 to 1. Bets on a single digit "single action" are usually taken by the runner for his own account, and pay off at 7 to 1.

of the protection costs are the responsibility of the controller.) Depending on the number of runners (25 to perhaps 500), most policy banks' total daily bets may range from \$10,000 to \$100,000 a day. (In some cases there are "super-banks" integrating the operations of several banks.) When the winning number is published--shortly after the 7th race for Manhattan and some other policy games--the bank will go through the "work" of the various controllers to pick out winning bets, and will credit the controllers for payoffs or, if necessary, send extra money. Controllers in turn provide the payoff money to the runners who pay winners, usually the next day, and usually collect a 10 percent "tip,"\*

While the normal payoff for a winning three-digit number in New York City is now 550 for 1, some of the popular numbers are "cut" which means the payoff is at reduced odds, in some cases as low as 400 to 1. On the other hand, the operators pay off 60 for 1 on bolita--which means they only make approximately 40% gross on bolita. The overall division of the average bettor's dollar is probably approximately as follows: thirty-nine cents for distribution costs (including the winners' "tip" to the runner), about five cents for operating expenses (including bribes), six cents profit to the banker, and fifty cents to winning bettors.

The industry is highly organized, operating non-competitively throughout New York City and State, and with territory generally divided among banks by mutual agreement. All banks are operated with the protection and participation of members of the organized crime "families" in the State.

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\*The description above is artificially precise. In fact there are variations in the procedure from group to group and from time to time, but the differences are not important for our purposes.

Black groups have recently taken over control of several of the banks in the Negro areas of New York State. However, these groups operate within the rules of the system as a whole and can probably most accurately be regarded as a new faction within organized crime. While some conflict can be anticipated between the new, black groups and the old groups in organized crime, mostly Italian and Jewish, the Negro policy bank owners are likely to become an important part of organized crime operating in much the same way as the other groups (although more independently than most current organized crime groups).\*

## 2. Runner Operations

At any one time probably approximately 12,000 runners operate in New York City and perhaps another 4,000 or so in the rest of New York State. The term "runner" is somewhat misleading. Many runners have a fixed location and/or a legitimate business or occupation. Typically they are elevator operators, barbers, candy store proprietors, or other persons regularly available and in contact with many members of the public, who also take numbers bets as a sideline. Also, most offices or factories employing sizable numbers of people will have one or more runners operating in that plant as a "territory." The runner may be a shop steward, a sweeper, the man who brings the coffee and doughnuts, or anyone else who has a job which gives him a basis for circulating through the facility. In addition, there are residential and street runners who go from house-to-house or apartment-to-apartment, or cover a relatively small number of blocks taking bets on the street.

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\*Black-controlled numbers operations have long flourished in Chicago, apparently in harmony with white criminals and officials.

From a business point of view, the compensation of runners is somewhat peculiar. By a very strong tradition, going back a number of decades, all runners get a flat 25 percent of the bets, despite the fact that some have to work quite hard, going from door-to-door collecting bets, whereas others merely take a few seconds off from their regular occupation to receive the money and record the bet. Part of the reason why many runners are--in narrow economic terms--overpaid is that their gambling income is partly a way for organized crime to sustain a large network of agents. Paying these runners \$5,000 to \$10,000 a year for not too much work is one way of making certain that organized crime has many loyal friends and agents available for other jobs.

Today we would estimate that only about 10% of the numbers are collected from residences on a door-to-door basis. Probably another 25% are collected in places of business and some two-thirds are collected in public facilities or on the street. Nevertheless, no one has to go very far to place his bet.

While numbers is to an important degree the game played by the poor people of the cities, with a few bets being taken for as little as ten cents or even less, the total volume of betting is quite high and most bets are large enough for profitable processing. A survey several years ago of numbers betting in Bedford-Stuyvesant,<sup>\*</sup> one of the poorer sections of New York, indicated that the average bet was over 50 cents. A more recent survey on a city-wide basis suggested that the average bettor bets

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<sup>\*</sup>H.D. Lasswell and J.B. McKenna, "The Impact of Organized Crime on an Inner City Community," The Policy Survey Center, Inc., New York, New York.

a total of \$1.80 a day on those days he plays.\* Indications are that something like three quarters of a million or more people play the numbers on a normal day in New York City, and we would guess another 150,000 or so in the rest of the State. (The number of players up-state is not as well known and may be much larger.)

One of the fundamental characteristics of the existing operation is the relationship of the runners to other types of criminal activity. In most cases running numbers is only one of the runner's occupations. As we noted, most have legitimate businesses or jobs. They may also be hustlers of one kind or another. Typically, the runner is the easiest contact with crime for ordinary citizens. An ordinary citizen who wants to use crime or the criminal organization may establish his contact by working through his numbers runner. In addition to commonly selling such things as stolen goods and untaxed cigarettes, numbers runners represent an information network for those who run the system and a source of pre-screened manpower over which the organized criminals have significant control because the runner's position is valuable to him.

## B. Outline of a Legal Alternative to the Numbers System

### 1. General Description

The essential elements that a legal system will probably need to compete successfully with the numbers are low minimum bets (no higher than fifty cents, and if possible somewhat less), daily action, a very broad distribution system, and individual selection of the number to bet on.

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\*Survey by the Oliver Quayle organization for the Fund for the City of New York. It may be worth emphasizing that this sum may in many cases represent 10% of the bettor's income.

We believe that a distribution system modeled after that used for the distribution of the games of Lotto and Toto in Germany\* should be the basis for a conservative first step approach to competing with numbers in New York. Under this system thousands of people would be authorized to sell numbers tickets in New York City and throughout the State. To make the system easier to operate, the tickets sold would be picked up and processed on a weekly basis. This system would provide a "pseudo-daily lottery." A bettor could make a separate bet each day, and each day a separate winning number would be chosen, and winnings paid, but the winning number would be paid against the previous week's bet. In other words, when a bettor goes in on a Monday, he can bet on the number for any day of the following week. If he likes to play every day, on Monday he can bet on next Monday's number, on Tuesday, next Tuesday's number, etc., so that each day he can put down a bet and each day there will be a winning number chosen and he can see whether his bet (made the previous week) was a winner. (Since a sizable percentage of players bet the same number or combination every day for a week--or a month or more--at a time, this system will appeal to at least part of the present set of players.)

This weekly distribution system should be combined with a limited distribution system that provides regular daily action where the bets are made on a number to be chosen that same day, and winnings are paid that day or the next. It is not clear how many outlets can be operated economically with daily action, since the minimum daily handle to break even is much higher.\*\* It is clear that the added logistics burden of daily collection and processing of numbers works against a very dispersed

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\*See Appendix for description of these games.

\*\*While New Jersey has started such a system based on several hundred machine terminals, apparently their system is still evolving.

distribution system, but it is not necessary to specify now just how dispersed a distribution system is feasible. That can be left to experience and the operating judgment of those responsible for running the system.

The basic idea is that there will be many distributors with their work being processed weekly, and some lesser number with the work being processed daily. The bettor who wants to get his bet down at the last minute will therefore have to go somewhat more out of his way than the bettor who is more patient. Between the two types of setup, it should be possible to provide service to every one at a relatively low distribution cost, on the order of five or ten cents a bet.

## 2. Variations

The question of how much of the income to give back to the bettors as payoffs is an issue of State policy and will be discussed below, but the form of the payoffs should be left for the operating system to determine as a promotional matter. A great variety of possibilities may be exploited in the marketing strategy. One example is a pari-mutuel payoff where, say, 75% of all the money collected is put into pools for the winners with 80% of the winnings divided among those who had all three numbers, 15% going for small consolation prizes for people who were near the correct number, and 5% for large prizes for people who picked two correct (three digit) numbers. The first number might be selected in the same way as the current illegal number--so that it would always be the same as the illegal number.\* The second number used to determine the jackpot would be chosen by computer. Some days the pari-mutuel payoff

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\*If the State establishes a winning number, the illegal system may adopt it, as it reportedly has in a few places in New Jersey.

would be very high because there would be few winning numbers, and this occasional high payout would serve as an attracting feature. When the payout was low, the fact that there would be many winners would also have promotional advantages. Fixed odd bets could be used as well as pari-mutuel bets, although this would produce fluctuations in the profits from day to day (and possibly some daily losses). Since the illegal game has a fixed odds payout the best way to compete with it might be to offer a higher fixed payout plus extra payoffs determined pari-mutually.

The simplest method that the betting organization can use if it wishes to guarantee that it does not lose on any individual day<sup>\*</sup> is to have pari-mutuel betting. This method may be the most effective competitively as well, although that is not clear. (The reason why the illegal operators do not use it may be that they are not trusted enough. A State or PBC policy game would have more trust among many people.) But the legal gambling system should be permitted to use any actuarially sound and safe game, even if it is not guaranteed to win each and every day (or every event). The betting authority should be allowed to rely on the law of averages.

Apart from an almost mystical idea that the State should never be a gambler (in the sense of relying on statistical probability), the objection to the State betting agency operating with a theoretical possibility of losing is that detecting stealing or manipulation would take longer if winnings were subject to random fluctuation. While this argument is realistic and deserves some weight, we do not believe it should be

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<sup>\*</sup>Various special measures could also be taken to guarantee against loss on individual days, such as insurance, limits on winnings, contingent payments, etc.

decisive. (Incidentally, casinos cannot be operated so that winnings are guaranteed at each table, or on any particular day. There have been successful Nevada casinos that have had net gambling losses for as long as a month.)

While there are an infinite number of ways to set up the payoff structure of the numbers game, it is useful to think in terms of two main alternatives. One is to increase the main payoff so that the same number of winners get larger amounts of money; the other is to have a number of small payoffs for people who come close to the winning number.

While it is not possible to know with high confidence how bettors and potential bettors would respond to different payoff structures, it is worthwhile to say a few words on the subject. First, it is clear that for very high payoffs at very long odds the amount of the payoff is not very important. For example, if the million dollar prize in the present New York State lottery were increased to two million dollars, it probably would have a very small effect on the sale of lottery tickets. (Having twice as many million dollar winners would probably have somewhat more effect, but probably not much.) At the opposite extreme, if there are two competing games which are very similar, even a very small difference in the prize will make a big difference in who will get the business. Making the basic numbers prize higher than the existing payoff would probably take away a lot of business from the existing game.

When the game begins to sprinkle a large number of small prizes, then a whole new effect comes into play. Suppose, for example, a lot of 5-1 payoffs were made as "consolation" prizes on numbers that had, for example, one chance in fifty of being picked. This would mean that one number out of every fifty would be a winning number. This would involve

an administrative cost to distribute winnings. It would mean that the normal player would win every month or so instead of every few years.\* In addition, a few cents of the payoff money could be used for jackpot chances. So a dollar bettor could have one chance in a thousand of winning \$600, one chance in fifty of winning \$5, and one chance in a million of winning \$50,000 for a total payout of 75¢. There would be a \$50,000 winner about every day.

In this game, however, as in the existing numbers game, there isn't much turnover in winnings being rebet. When the bettor buys his ticket he has to figure that basically his money is down the drain, at least for the short term. This is very different from horserace betting or casino betting. At the horse races many bets are nearly even money but increasingly bettors are choosing the special high odds bets like doubles, exactas, etc. On the average all the bettors lose about 18% and they bet over and over again. That is, at some of the New York tracks the amount bet by the people coming to the track is about \$100.00 a day, and the average amount lost is \$18. In table games in a casino (craps, blackjack, roulette, etc.) the average amount taken by the house in a single play ranges from about 1 to over 15 percent (mostly in the end of the range), but the money is rebet so often that the house ends up winning about 20% of all the money used to buy chips. Very large amounts are bet in the slot machines, which in Nevada pay back on the average about 85 cents for every dollar put into them in the form of a mixture of small payoffs and large payoffs.

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\*Assuming that the "normal" player bets one "straight" number each day. Actually, many or perhaps most players either bet more numbers or bet bolita or single action and thus win more often.

C. Prospects for a Legal Numbers System

1. Competing with Illegal Numbers

How well could the system described here compete with the existing numbers system? We think that the existing organization is rather vulnerable to competition. The existing system has very expensive distribution costs, and therefore provides a rather poor payoff to its customers. (The customers get a slightly better chance of winning in the illegal numbers than in the State lottery. But the lottery is much more of a long-shot bet and it is both traditional and rational for such bets to be "charged" more. However, some people think it is wrong for the State to benefit from people's interest in windfall fortunes.) The State can offer a product which in rational terms has substantial advantages to the bettor, in addition to any preference that some citizens may have for betting with a legal organization.

On the other hand, the existing distribution system is one that has deep roots in the cultural pattern in a number of communities, particularly some black and Spanish-speaking communities. Many of the people of these communities do not trust government and prefer dealing with representatives of the familiar criminal organization to dealing with representatives of the State. In some of these communities a major fight might be made by the existing numbers organizations against a competing legal system. This fight would be conducted at the political level, at the level of street propaganda, and perhaps with the use of fear of violence.\*

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\* Basically the legal numbers system that we propose takes money from the runners and gives it to the bettors, and takes money from the bankers (of organized crime), corrupt policemen, and other bribe-takers and pays it to the State. The bigger share of the money is to come from the runners. This means that there is automatically a lobby of some

However, much less than half of the numbers are sold in Negro communities. Even if legal numbers takes only a small share of the business in these areas, it still can take a large share of the total numbers business. Also, it is quite possible that even in the black communities a legal system can take most of the business away from the current operators, particularly if the operating agency uses a reasonable amount of tact and cleverness. In any event, we see no reason why the fact that the legal system will not take the business away in some communities should argue against introducing a legal system in those communities where it will be accepted. These will almost certainly be the substantial majority.

A second important issue is how will the number of gamblers converted from illegal to legal systems compare with the number of new gamblers? The Quayle survey indicates that probably well over a million New Yorkers more or less regularly bet the numbers. On the basis of experience in other countries regarding the number of lottery bettors (and taking into account the parts of the State where numbers betting is not now generally available), it seems reasonable to estimate that many more numbers bettors may well be added if an extensive legal distribution system is available.

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15,000 people with a strong interest in preventing a legal policy game. There is already evidence that this lobby has secured the support or help of some minority group leadership elements. To protect their position they will use a variety of arguments, some racial, some sociological. We do not believe that the Legislature should prefer the interests of this well organized, highly motivated, and vocal minority--the runners--over the interests of the very much larger number of bettors.

If the supposed leaders of any community want to keep legal policy out of that community, their wishes can be complied with. If the legal policy game is a much better gamble than the illegal numbers, which it should be, then before long some citizens of that neighborhood will demand that they be given equal access to the legal game. Until then, they will come out of their own neighborhood to bet where the legal policy game is welcome.

(However, most of these would be people who now bet on the State lottery or other forms of gambling.) Initially at least the legal system could concentrate its efforts in those areas where illegal numbers are widely bet, but that does not seem to be a long-term stable arrangement. In the long run it seems likely that wherever there is a market for legal numbers, that market will be supplied and eventually it will become substantially larger than the existing market.

On the other hand, numbers (which is just another word for a relatively low-odds daily lottery with self-selected numbers) is in some ways one of the least objectionable forms of gambling. It does not have the characteristics that tempt people to bet greatly beyond their means; if legal, it does not corrupt or threaten to corrupt any legitimate activity, and similar games are commonplace in a variety of other societies without any great apparent harm. Of course the fundamental moral and practical objections to gambling discussed elsewhere apply to this form as well.

A third important question is: to what extent would a legal numbers system free the resources of the criminal justice system which are now engaged in trying to put the illegal numbers operators in jail? Initially, the legal numbers system will be in a competitive battle that may take many forms. The illegal numbers operators have long had a monopoly and have not had to compete for business. If this changes they may be smart and effective competitors, or they may not. Particularly if the legal system gives a high payoff to bettors, we believe that it can win that kind of competition. During the initial competitive phase it will be very helpful if the police maintain or even increase the pressure against the illegal operators. Much of the justification the criminal operators

now use for their protection (that they are providing a service that the citizen wants and can get in no other place) will be taken away by the legal competitor. Possibly the illegal system will continue alongside the legal system with sufficient volume and strength to present a continuing major police problem. However, we think it is probable that after an initial period of vigorous competition, a large share of the illegal operation can be put out of business, and thus the current burden on the police, and corruption, will be substantially reduced.

## 2. Return to the Bettors

In the illegal numbers game and sports pools about half the money is now paid back to winners (probably less in pools). For both of these kinds of bets it is possible to arrange the payoff so that on the average the bettors get back whatever percent is decided (after 10-15% for operating costs and commissions is deducted).

While it might seem that the way for the State to maximize revenue from a legal numbers game is to pay back to winners a low percentage of the amount bet, as in the existing lottery or the illegal numbers game, this is probably not true. The reason it is not true is that a large potential market among the existing numbers players probably cannot be switched to a legal game unless the legal game offers them a better payoff. It seems fairly likely that the State can increase its profits by increasing the return to the players within some range above that now given back in winnings by the illegal numbers game. Our best guess is that increasing the payoff from the current 50% to 60-65% might take somewhat less than half the numbers business away, and increasing it to 70-75% might take perhaps three-quarters of the numbers business away.

If these estimates are correct it would be profitable for the State--as well as most effective in competing with organized crime--to increase the payout to the bettors to the point at which most of the business is taken away from the illegal numbers game. (Although the maximum profit point is probably one where about 50 to 60% of the illegal bettors are led to switch to the legal game.)

The estimates of how high a payoff to the bettors will be necessary to take away the customers of the illegal numbers game are quite uncertain. One of the likely responses of the illegal numbers operators to a legal game would be to increase their own payoff. Since numbers runners stand to lose the most from the legal competition, the illegal numbers game might well respond to a legal game by giving an additional 10-15% to the bettors in prizes, coming perhaps two-thirds from the runners and one-third from the bankers and controllers. In order to compete against this the legal numbers operators would have to increase the payout to bettors even further, so the return to bettors necessary to take away the bulk of the illegal business may be higher than 75% (or conceivably even 80%).

The second question for the State in deciding how much winnings to give to the bettor is: can it increase the total amount of betting by, in effect, offering the bettor a better price? The limits of the State's ability to profit by lowering the price to the bettor is set by the operating cost. We assume for the sake of convenience that the operating cost is 15%. (In fact, presumably the operating cost would depend on volume, and it is not possible at this point to predict what the actual operating cost would be, or how it would respond to increased volume. But for discussion we will assume 15% on all volumes.) This means that if the payoff to the bettors is increased from 83% to 84%, the State's profit

would be cut from 2% to 1%. Since so small an increase in the return would certainly not double the volume of betting, it would be a losing move for the State.

We believe the optimum strategy is probably to start the numbers game with a payoff which is amply high to attract most of the existing numbers players. We think it would be a mistake to try to begin only slightly better than the existing game, because that would give the existing operators the ability to raise their payoffs to stay competitive. It is better to hit the existing game hard all at once, rather than gradually escalate returns competitively with the existing game. This strategy would involve payoffs to the bettor in the range of 75%. If the commissions and administrative costs total 10%-15%, which is reasonable, then the net to the State should be 10%-15%. This is higher than the recommendation of the Fund for the City of New York (which proposed 7%, equivalent to the State sales tax) but we believe not excessive. It provides an added insurance for the system if operating costs are, in fact, higher than 10-15%.

The second reason for high payouts is that retention by the State is something like a voluntary tax. This "tax" will fall most heavily on low income citizens of the State, and many people will feel that it is not a desirable source of revenue. While estimates of how regressive the gambling losses actually would be are difficult to make, we think it is fair to assume that gambling losses would be about as regressive as sales and other excise taxes, less regressive than the real property tax and more regressive than the income tax. But the effect of instituting the

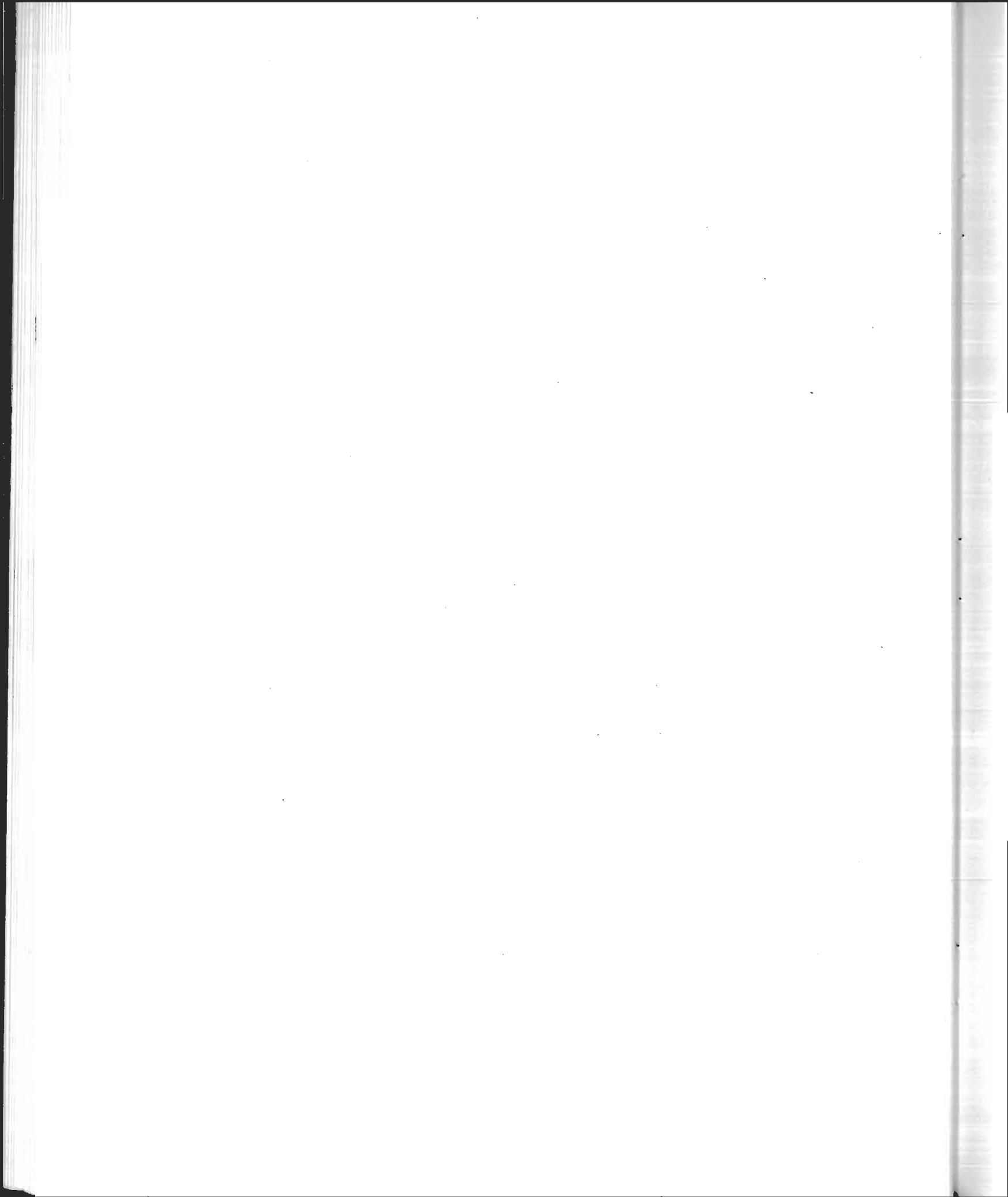
proposed game is probably progressive; that is, it reduces the burden on the poorest classes because they are now disproportionately playing a game that takes 50% from them.

With a 75%-80% return to the bettors, it is reasonable to think that the total amount bet on the numbers would rise over a period of three to five years to a total in the neighborhood of a billion dollars per year. This assumes that most of the current illegal numbers business would be taken away by the State, that the existing lottery is combined with the numbers (or loses business to it),\* and that additional numbers players would be created because the system was legal. Because of higher payouts for bettors, wider distribution, and better promotion through legal channels, something like twice the existing numbers volume should be possible, which would be about a billion dollars or \$50 per capita. (These figures are much larger than the \$7 to \$15 per capita for similar games in England, Germany, Australia, etc.) At a 10% takeout this would mean about \$100 million per year for the State government.

If a higher percentage were taken by the State, the increase in revenue would not be proportional, but it might be a few tens of million dollars. However, as suggested above, not only effectiveness in competition, but also the moral basis of the operation is affected by whether it is being used by the State as a substantial money raiser.

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\*The relationship between legal numbers and the lottery is discussed in Chapter VII.



## III. SPORTS AND HORSE BETTING

Horse race betting is a special case of sports betting for two reasons. First, horse racing, unlike the other sports on which there is widespread betting, is now regulated by the State (although the most important regulation is probably by the industry). Second, there is an existing program for legal betting on horse races, both on- and off-track.

Twenty years ago horse race betting was the principal kind of illegal sports betting, but because of the rise in legal horse race betting and the tremendous increase in interest in other sports, particularly football, horse race betting now represents only a small part of the illegal sports betting, perhaps 10 or 15%--probably substantially more outside of New York City.\* Therefore the following discussion will be focused primarily on other forms of sports betting. Nevertheless, nationally horse race betting represents half of all non-personal sport betting--legal and illegal. And racetrack attendance is over 50% of all commercial sports attendance. (Dog racing, which is a betting sport, and auto racing, which is not bet on because it is too easy to fix, also have very high attendance. Horse racing; 72 million, professional team sports; 54 million, dog racing (in only five states); 13 million, auto-racing; 30 to 40 million.)

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\*There has also been at least a relative decline in interest in horse racing as a sport. It seems likely that this decline would be reversed if more races were televised. When cable TV becomes more important this is likely to happen. Much of the decline in interest in race-betting dates to the termination of the race-wire and the horse room after the Kefauver investigations. This is evidence for the potential significance of television. Although it should be noted that some of the stimulative effects of television could be achieved with only radio or even taped simulated broadcasts of races.

A. Existing Bookmaker Operations

A large scale illegal sports betting industry operated in the State of New York today. It is helpful to artificially divide the industry into two parts--that which deals with large bets only (normally \$25.00 - \$100.00 and up) and that which deals primarily with small bettors (\$1.00 to \$5.00) and also handles medium bettors. These illegal operations provide a great deal of money to criminals, have a strongly corrupting influence on the criminal justice system, and consume a noticeable part of the resources of the criminal justice system.

The large-bet sports betting industry is in some ways the opposite of the illegal numbers business. The numbers industry involves hundreds of thousands of people making very small bets at fairly high odds and losing a large share of the amount bet.\* The big sports betting operation involves probably tens of thousands of bettors, generally betting large sums of money at roughly even odds, and typically losing 5 to 15% of the money they bet.

Another major difference between numbers and sports betting is that, the numbers game requires no skill of the banker because the outcome is purely a matter of chance. Sports betting, on the other hand, (excluding pools), is much more complicated to operate. Most bookmakers are actually engaging in two occupations simultaneously. One is essentially a brokerage service which enables bettors to bet against each other by accumulating equal bets on both sides of any game. Where the bookmaker performs this function he doesn't care who wins or loses, and he gets what amounts to a commission. In games that are handicapped by points, such as football

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\*On the average numbers players lose about half of the money they bet, but in any year the great majority of those who play one regular three-digit number a day, or less, will lose all the money they bet.

and basketball, the normal arrangement is that the bettor chooses either side and puts up \$11.00 to win \$10.00. (On smaller bets the bettor has to put up \$6 to win \$5. Currently some bookies are getting 6-5 for all bets under \$50.) This means, if there is a perfectly balanced book, that the bookmaker will win 4 1/2% of all the money bet.\* The commission on horse race betting is much larger, being in effect the same 18% taken by the pari-mutuel at the track (17% nominal takeout plus 1% for "breakage"), because the bookie pays off the same odds that the track does. However, the bookie normally has a maximum payoff which will sometimes be less than that paid out at the track.\*\* Bookmakers also take a number of combination bets, called "parlays," "reverses," "if bets," "teasers," and "round-robins," some of which involve commissions substantially above the basic commission (4 1/2% for big bets, 8 1/2% for small bets).

The other occupation that the bookmaker normally engages in is betting. For most events the bookmaker does not have a balanced book; thus he stands to lose money if the more popular team wins. To some extent the betting by the bookmaker is deliberate. He thinks he is a better handicapper than

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\*Assume a game in which \$11.00 is bet on each side. The winning bettor will get back (or keep) his \$11.00 and \$10.00 more. The losing bettor will lose \$11.00. Thus the bookmaker will keep \$1.00, or about 4 1/2% of the \$22.00 bet.

Often the bookmaker's "commission" for running a balanced book will be even less than this theoretical 4 1/2%. If, as is fairly common, the "line" must be shifted (i.e., the number of points the favorite is expected to win by is changed), in order to balance the money coming in from the two sides, the bookmaker runs the risk of being "middled" if the winning margin is in between the initial line and the final line. This possibility reduces the average commission to the bookmaker.

\*\*Despite the fact that the "commission" is much larger on horse race bets, many large bet bookies seem to prefer sports bets because they don't get enough horse betting to balance their books, because the "exposure" is high, because of uncertain odds, and because they have to know which tracks are reasonably protected against fixes.

his customers, and he chooses to take a position. In other cases the bookmaker's position comes about because there are more bettors on one side than the other and it hasn't been possible, or convenient or worthwhile, for him to balance his betting by laying off\* with another bookmaker or at the track.

Big-bet bookmaking is very much a large-volume, low-markup business. Most of these bookies use anywhere from two or three to 30 or 40 men, doing gross betting volume ranging from a little less than a million to 25 or 50 million dollars a year (and in a few cases even more). These operations return 8-12% of the gross amount bet to the operators of the business out of which they must pay runners' commissions, salaries and expenses, and bribes and payoffs before taking their profit.

Small bet bookmaking is a different business in a number of ways. A small bookie will take bets as low as a dollar or two and will have many customers. In most cases he will also have a few customers who make fairly substantial bets. Normally a small bookie's customers will be groups, either in bars, restaurants, factories, or offices, so that the bookie can conveniently do a large business in a short time.

The small bookies usually charge a higher commission. The normal small bet where points are given is 6 to 5 instead of 11 to 10, producing an average return to the bookies of about 8 1/2%. Of course, on horse racing the small bookies still get at least the basic 18% provided by following the track odds. Usually the small bookie gets a lot of combination bets which give him a higher commission. In some cases, protection for the small bookies is purchased centrally by organized crime corrupters

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\*A "lay off" is where a bookie bets with another bookie or elsewhere to compensate for an imbalance of bets with his customers.

the small bookies is purchased centrally by organized crime corrupters who serve, in effect, as coordinators of the bookie operation, even if the bookies are operating as individual entrepreneurs.

It seems very likely that few if any bookies in New York handling more than perhaps a million or two in bets per year operate without some links to organized crime. It is not so clear what percentage of the small bookies are linked to various levels of organized crime.

#### B. The Sports Pool Card Business

Pool card betting, although it concerns sports, is totally unlike bookmaking. A typical pool,\* such as a football pool (usually called a football card), works as follows. A printed form is circulated listing all the major football games (e.g., 35 college and professional) for the week, with the point handicap for each game. (See following pages.) The bettor picks between three and sixteen winners and specifies the amount he wishes to bet. He is paid off at fixed odds such as 4 for 1 for three winners in three picks, or 250 for 1 for ten winners out of ten picks (9 out of 10 gets 15-1). The actual odds would be very much higher for the many game bets, assuming the bettor had an even chance of being right on each selection (excluding ties). But the bettor has the advantage of later information than the handicapper who made the line printed on the card, and the pool card always includes a few obvious "errors" as teasers. Therefore the bettor's chances are better than a statistical calculation would suggest. Nevertheless, pool winnings (by bettors) probably amount to only 40-50% of the total amount bet. (The English and German pools

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\*The discussion excludes "office pools" or "club pools" conducted by the participants, in which the winner gets all the money in the pool.

BACK COVER

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**GRIDIRON WEEKLY****—SELECTIONS—**

**Note:** Three (3) or more of your selections must play in order for selection to have action. Any ticket with less than three (3) played games will be considered void and will be returned in full whether remaining played games win, lose or tie. Games must complete 2 full quarters of play in order for selector to have action. If game does not complete 2 full quarters, game will be considered as a scratch game and prizes paid accordingly.

All T.V. games are regional telecasts. Check local papers for game in your area. Ditto on radio games.

**ABBREVIATIONS:**

R—Radio                      T.V.—National T.V.

Reg.—Regional T.V.

R & T.V.—Radio & National T.V.

All winning tickets must be claimed before 1st Sat. following previous weekend games or claim will not be honored. "Absolutely no exceptions regardless of reason."

In all fairness to all loyal & faithful G & W subscribers, we may at times be a day late. It is because we will not attempt to publish an edition where handicaps are not accurate, fair, or honest according to "G & W Standards."

**TICKETS WITH NO AMOUNT  
AUTOMATICALLY VOID**

**ANY GAME PLAYED BEFORE SATURDAY  
AUTOMATICALLY VOID**

All Tickets Must Be In By Noon Day of Play  
You Can Take or Give Points

Selections Must WIN According to HANDICAP

**PLEASE CIRCLE ALL SELECTIONS**

FRONT COVER

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INSIDE

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**TIES LOSE UNLESS PICKED**

3 WINS IN 3... 4 for 1	8 WINS IN 8... 100 for 1
4 WINS IN 4... 10 for 1	10 WINS IN 10... 250 for 1
5 WINS IN 5... 15 for 1	12 WINS IN 12... 500 for 1
6 WINS IN 6... 25 for 1	15 WINS IN 15... 2500 for 1
7 WINS IN 7... 50 for 1	16 WINS IN 16... 5000 for 1

**CONSOLATION PRIZE**

9 Out of 10... 15 for 1	14 Out of 15... 200 for 1
11 Out of 12... 25 for 1	15 Out of 16... 300 for 1

College Football—Saturday, Oct. 21, 1972

TEXAS A&M	T. C. U.	E
CLEMSON	VIRGINIA U	+ 3
HARVARD (R)	CORNELL	+ 3
WEST VIRGINIA U	TULANE	+ 3
AUBURN	GEORGIA TECH	+ 3
IOWA U	MINNESOTA U	+ 3
TEXAS U (TV)	ARKANSAS U	+ 3
S. M. U.	RICE	+ 3
BOSTON COLLEGE (R)	PITTSBURGH	+ 7
ALABAMA	TENNESSEE	+ 7
PRINCETON (R)	COLGATE	+ 7
YALE (R)	COLUMBIA	+ 7
HOUSTON U	MIAMI (Fla.)	+ 7
DUKE	MARYLAND	+ 10
MICHIGAN STATE	WISCONSIN	+ 10
OKLAHOMA STATE	BAYLOR	+ 10
MISSISSIPPI U	FLORIDA U	+ 10
U. C. L. A.	CALIFORNIA U	+ 10
WASHINGTON STATE	OREGON STATE	+ 10
PURDUE	NORTHWESTERN	+ 14
OKLAHOMA U (TV)	COLORADO U	+ 14
OHIO STATE	INDIANA U	+ 17
GEORGIA U	VANDERBILT	+ 17
MICHIGAN U	ILLINOIS U	+ 17
AIR FORCE (R)	NAVY	+ 17
STANFORD	OREGON U	+ 17
NO. CAROLINA U	WAKE FOREST	+ 19
PENN STATE (R)	SYRACUSE	+ 21
DARTMOUTH (R)	BROWN	+ 24
L. S. U.	KENTUCKY	+ 24
NOTRE DAME (R)	MISSOURI	+ 28
SO. CALIFORNIA	WASHINGTON U	+ 28
NEBRASKA U	KANSAS U	+ 34

Pro Football—Sunday, Oct. 22, 1972

G.B. PACKERS	ATL. FALCONS	+ 3
CLEVE. BROWNS	HOUSTON OILERS	+ 3
WASH. REDSKINS (TV)	D. COWBOYS	+ 3
N.Y. JETS (R)	BALT. COLTS	+ 7
N.Y. GIANTS (R)	S.L. CARDS	+ 7
DET. LIONS (TV)	S.D. CHARGERS	+ 7
L.A. RAMS (TV)	CINCI. BENGALS	+ 7
OAK. RAIDERS	D. BRONCOS	+ 13
PITTS. STEELERS (R)	N.E. PATRIOTS	+ 14
S.F. 49ers	N.O. SAINTS	+ 14
MIAMI DOLPHINS (R)	BUFFALO BILLS	+ 17
K.C. CHIEFS (R)	PHIL. EAGLES	+ 17

NAME ..... AMT. ....  
 NO. OF SELECTIONS .....  
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YALE (R)	COLUMBIA	+ 7
HOUSTON U	MIAMI (Fla.)	+ 7
DUKE	MARYLAND	+ 10
MICHIGAN STATE	WISCONSIN	+ 10
OKLAHOMA STATE	BAYLOR	+ 10
MISSISSIPPI U	FLORIDA U	+ 10
U. C. L. A.	CALIFORNIA U	+ 10
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K.C. CHIEFS (R)	PHIL. EAGLES	+ 17

NAME ..... AMT. ....  
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Nº 69343

pay off on a pari-mutuel basis rather than the fixed odds, but that difference is not fundamental.)

Relatively little seems to be known by the police about illegal pool betting in New York. We believe (based on the Quayle survey) that the annual volume in the State is about 40 to 60 million dollars, but it might be much larger. Most pool cards seem to be mass-produced on an interstate, if not national, basis. Usually they are distributed by individuals who deal with the public, such as news stand dealers, barbers, etc., who normally get a selling commission of 25% of the bets. Some bookies, particularly small bookies, also handle pools. Most big bookies in New York have contempt for pool betting, or at least pretend to.

The pool business is immensely vulnerable to legal competition. It provides even a lower payout to bettors than do numbers. It does not have the aspect of "personal service" sometimes associated with the numbers. Because it is now operating on a weekly basis a legal competition would not have the distributional logistics problems of daily bet collecting and payoff.

#### C. Current Law Enforcement

New York City now has some 400 men assigned to enforcing the laws against gambling. Despite their efforts there may be as much as a billion dollars a year bet on sports in New York City and most bettors have no trouble placing a bet when they want to.\* Part of the reason why it has proved to be impossible to enforce the law is that there is massive corruption of the police and other parts of the criminal justice system. Furthermore, judges who are not corrupt are generally unwilling to give

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\*At least regular bettors; others will have some trouble unless they know someone.

prison sentences for conviction of gambling offenses because they do not believe that the seriousness of the crime warrants a heavy penalty, because they don't think a prison term will do any good, or because they think of prison resources as limited.\* Thus the criminal law operates as no substantial deterrent.

It is incorrect to think that the current laws against gambling are having no effect at all. If gambling were legal there would be much more promotion of gambling and more involvement with betting by people with only casual interest. Perhaps more important, some people would argue that the law serves the social function of displaying limits to human behavior, teaching the lesson that society requires constraints on human choice. The argument is that whatever limits society sets will be widely violated, but that they nevertheless perform a valuable psychosocial function.

Many people have various other arguments for the social value of restricting gambling, and/or restricting State approval of gambling. None of these present a rigorous or demonstrable case for the social value of restricting gambling, but it is our view that the question is difficult enough to understand so that these arguments against widened State approval of gambling should be given serious weight. An example of this type of argument is contained in Appendix II.

But the primary direct effect of law against gambling is that it involves the gambling industry, customers and operators, in criminal activity, and leads to massive corruption of the criminal justice system.

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\* In a recent case The Appellate Division cut in half a four year sentence given to a major bookmaker who had attempted to bribe police and the District Attorney's Office on the grounds that it was excessive. *People vs. Kerrigan*, 37 Appellate Division 2d 515, 321 N.Y. Supp. 2d 615, (1st Dept.), 1971.

D. Possible Legal Sports Betting

The State (presumably acting through a PBC) could go into sports betting on either head-to-head\* (individual event) or pool card basis (or both). The two key techniques that the State should use to get into this business are (1) the use of a service charge to cover the costs of selling and processing bets, and (2) a pari-mutuel payoff system that serves the dual purpose of avoiding the Federal excise tax and guaranteeing the State against betting losses.

The bookies' low margin, 4 1/2% for most of the betting, looks as if it would be impossible to compete with, but the bookies who operate under such a low margin have a high minimum bet. The cost of processing a bet (that is, the operating cost of the betting agency) are the same whether the bet is \$2.00 or \$100.00. The State could assure its ability to pay its operating costs by having a high minimum bet and a low takeout, like the bookies. We believe that it would be simpler, more in keeping with the actual economics, and in many ways preferable, to have a simple flat charge for making a bet, no matter what the size of the bet. This flat charge would be approximately the actual cost to the betting agency of selling and processing the bet. On the basis of New York City OTB experience, this charge might be in the neighborhood of forty cents, although increased experience and a higher volume might permit a lower cost. While it is true that in serious gamblers' calculations, a \$2.00 bettor "could not afford" to pay a forty cent charge on an almost even money bet, many casual players would be happy to make such bets, and there is no reason

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\*The phrase "head-to-head" betting means bets on a single event. Some people use a similar phrase, "man-to-man" betting to mean bets between individuals rather than with bookies or a system.

to exclude them. (\$2.40 is exactly what someone betting with a bookie has to pay to win \$200. Of course, most such casual players, interested primarily in the sport, will continue to bet mostly with friends.)

The State would earn a profit by taking a small percent out of the monies bet before distributing the remainder to the winners in pari-mutuel form. Three percent might be a reasonable figure for the State to take off the top at the beginning, including breakage to the dime. This would mean that for any bet above \$9.00 the bettor would be getting better odds from the State than from the bookie, assuming that there are equal amounts bet on both sides. If there are unequal amounts, the bettor will do better with the bookie if he is betting with the favorite, and better with the State if he is betting with the underdog (both "favorite" and "underdog" refer to the volume of betting, not who is expected to win).\*

A number of discussions of legal alternatives to bookmakers have assumed that the pari-mutuel game run by the State would not be competitive. We believe that such a game would in fact draw a substantial share, maybe as much as a half or more, of the existing business. Although it is also quite possible that bettors would not like that form of betting and only a much smaller percent would use the legal game. It is generally assumed that since the bettors are now betting fixed odds (e.g., 11-10 or 6-5) they prefer that. Undoubtedly some prefer fixed odds, but we believe that a good many bettors will learn not to care, and that many will prefer

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\*When a bettor bets \$22.00 with a bookie, he gets \$42.00 back if he wins and nothing if he loses. If he bets \$22.00 with the State, forty cents goes to service charge and \$21.60 goes into the pool. A two-man pool, one on each side, would have \$43.20 of which the State takes \$1.30, and \$41.90 goes to pay the winning bettor who put up \$22.00. (This calculation ignores breakage.)

pari-mutuel. Some bettors like to outguess the crowd and a pari-mutuel form of betting makes it profitable for them to do so.\*

Another advantage of the legal system described above, compared to the bookies, is that it offers better odds on high bets. (A person betting \$110.00 with a bookie would have a return of \$210.00 if he wins, but if he bet the same \$110.00 with the legal system, he would get back \$212.60.) Furthermore, many of the bettors would prefer to bet legally rather than illegally. Also illegal betting always carries a risk of not being paid if you win.

On the other hand, the bookie would retain some advantages, some of which are not as important as they are often said to be. First, the bookie offers credit, but this credit is more a matter of convenience than it is of actual financial importance, because the bookie usually collects within a week, and often within a few days. The State system could, like New York City's OTB, provide for betting deposit accounts so that the bettor can bet by telephone or without bringing in cash each time he bets. It could even pay interest on such accounts so that there would be no substantial cost to the bettor to keep his money in the betting agency account rather than in a bank account. While as a matter of public policy it may not be felt to be appropriate to do so, we see no reason why it would not be possible to make reasonable arrangements, either directly or through

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\* We think that it is possible and not too expensive for the betting agency to operate a tote board which will let the bettor know what the odds are at any moment. While this will not tell them the final odds which are the basis of calculating winnings, it will give him a basis for estimating them. The existence of a tote board will tend to produce a lot of last minute betting by people who want to see what the odds are before they bet. This will produce a peak load problem in the selling system, but there are a number of ways to adjust to this (e.g., higher price for last minute betting).

some private agency, for short-term credit for bettors comparable to that provided by bookies.\*

The bookie offers anonymity, whereas the State betting agency would require reporting of large winnings to IRS at least at high odds (this is somewhat less significant for sports betting because most winnings will be at low odds), and perhaps other exposure of betting activities. While this would bother some bettors, it would not bother all. Furthermore, as we suggest later in this report, it would be quite reasonable to insure that those bookie bettors whose activities are disclosed, get very high exposure to law enforcement agencies of all kinds, with the result that one might be more significantly risking one's anonymity by betting with the bookies than by betting with the State.

The bookies offer a variety of special combination bets. But the State can also offer a variety of bets using pari-mutuel principles. It is not clear that the bookies' menu of bets will be a better attraction than the menu provided by the State although he can offer many more bets than can the pari-mutuel system.

The volume of business that could be done on a state-wide basis in a program as described above, could be estimated something as follows: the illegal sports betting (excluding horses) is now in the range of \$1 billion

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\*The basic credit convenience needed is to let the bettor pay in cash in advance something like his expected loss rather than his maximum possible loss. For example, suppose a person bets 10 games at 11-10. In more than eight cases out of nine he will win 3 or more of his bets. This means his maximum probable loss is \$47.00, but on a strict no-credit system he would have to put up \$110.00. For this reason most bettors "bet" much more than they ever have to have in cash. It is somewhat artificial to speak of the bookie giving \$110.00 credit to a man who makes 10 bets and who ends up being owed, say \$16.00 by the bookie. The usual notion that the bookie is providing credit is based on the unspoken assumption that the bookie is entitled to be the stakeholder.

to \$2 billion. It is not unreasonable to think that 30 to 50% of this can be switched to the legal system by the third year of operation. This would be \$300 million to \$1 billion. We think that \$200 to \$500 million of new betting is a reasonable guess. (Most of this money would come from people who can't pay the bookies minimum bets, don't want to bet with bookies, or don't know bookies. It would include a large number of new bettors, although most of them would probably be people who now bet with friends or on pool cards.) Thus the total volume might well be expected to be in the range of \$500 million to \$1,500 million per year by the third year. The State's profit on this money would be the percent taken out of the pari-mutuel pool (since all expenses would be covered by the service charge) which at 3% would be \$15 million to \$45 million. Obviously, therefore, the justification for this system is not primarily revenue, but to provide a legal alternative to the sports bookmakers.

The head-to-head betting system described above is essentially an even money game. It would appeal most to serious bettors and to those with a rooting or other interest in the outcome of the game. For people who prefer long-shot betting, a pool card would be a more desirable betting attraction and one that could compete with the existing pool cards.\*

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\*It might be thought that pool cards would have the additional advantage of reducing the temptation to fix events by forcing the bettor to bet on many events, and thus reducing his advantage from having fixed a single one. However, this is not necessarily true. Unless the operator keeps half or more of the money bet, it can be profitable for a person to fix a single game even if he has to bet on fewer games, because he can "wheel"--that is, bet both sides of--the other games that he has not fixed. That is, he can bet all possibilities in the unfixed games and be certain of winning at least once if the game he has fixed turns out as he has expected. In a four-game pool he can be paid off at 10-1 winning \$2 for every \$8 bet. (Currently this seems like strange behavior to most gamblers.)

Special Use of Sports Pool Cards to Compete with Bookies

Pari-mutuel pool cards could be used simultaneously to imitate the head-to-head play with a bookie and to appeal to the bettor who likes the possibility of big winnings from long-shots. For example, it could offer the bettor a pool card on which he could pick any six games and be paid off if he had four, five, or six winners. A pari-mutuel pool might divide all the bets into three equal pools, one to be divided among all those who had picked four correct winners, one among those who had picked five correct, and a third to go to those who had all winners. The expected results for a \$10 bet with such a pool card are shown below (with 11% taken out of the pool for the State), compared with the results of betting six games with the bookie at \$6 to \$5. Columns (4) and (5) show the change in payoffs if the pool card is used in a way that emphasizes high-odds bettors; i.e., payoffs to those who have five winners out of six in column (4) and payoffs only to those who have six winners out of six in column (5). Higher odds could be obtained by letting the bettor bet on more games. Lower odds would result if a higher share of the winnings went to those with 4 correct selections. Similar results could be obtained on a fixed odds basis.

The takeout from pool betting depends on whether most bettors bet many or few games. Betting on many games means high odds and it is not necessary or appropriate to pay a bettor as near to the correct odds on a long-shot bet as on a bet nearer to even money. However, a fixed-odds game may be preferred by someone who is going to fix one game and wheel the rest. But it is not clear that that need be an important consideration. We feel that while a pari-mutuel pool card has certain advantages,

RESULTS OF BETTING SIX GAMES\*

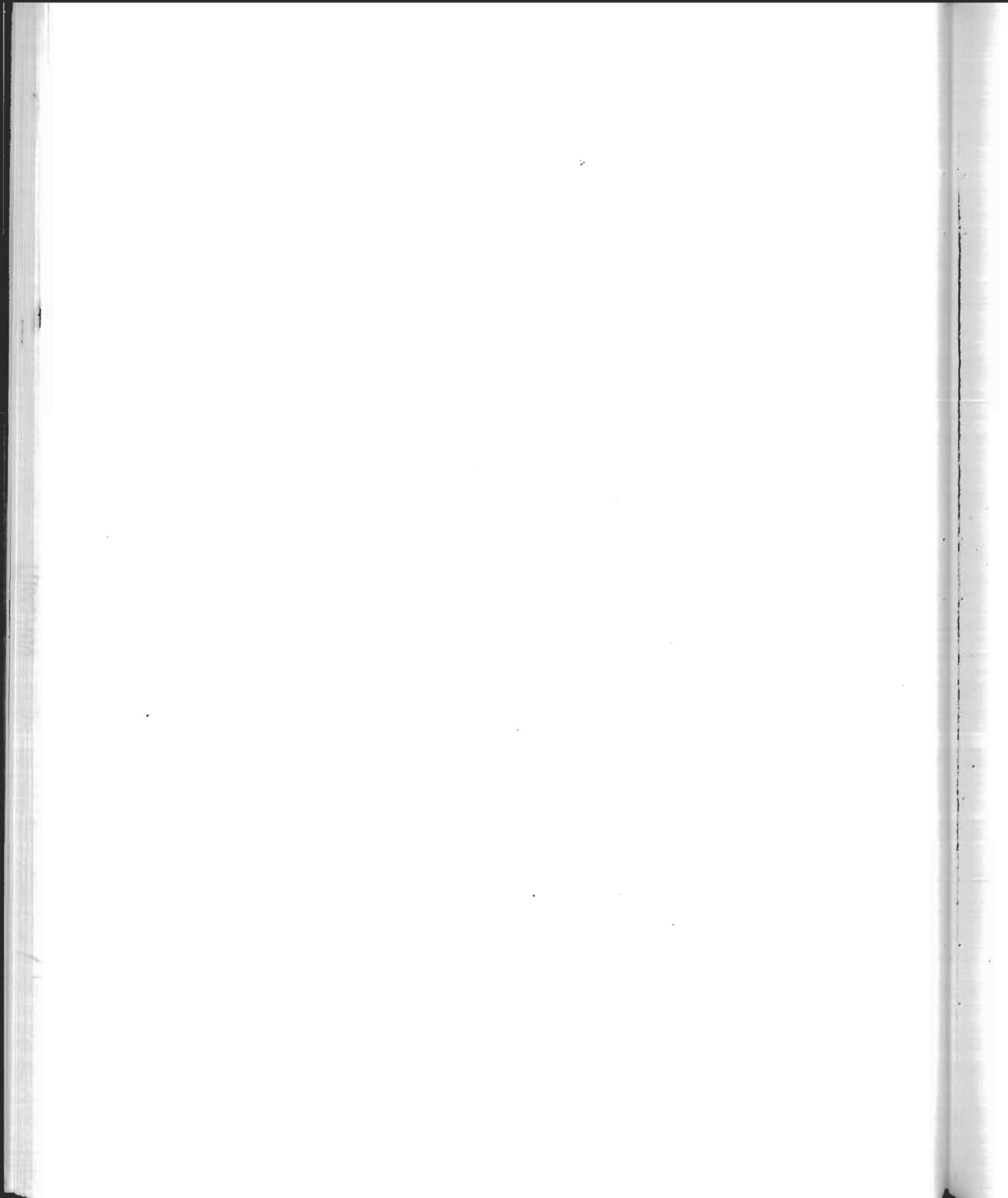
Bettors Payoff (+) or Loss (-)

<u>Number of Correct Selections</u>	<u>Bookie</u>	<u>Pool (minus 40¢ service charge) (about 11% takeout by State)</u>		
		<u>3 classes of winners</u>	<u>2 classes of winners</u>	<u>1 class of winners</u>
0	-\$36	-\$ 10.40	-\$ 10.40	-\$ 10.40
1	-\$25	-\$ 10.40	-\$ 10.40	-\$ 10.40
2	-\$14	-\$ 10.40	-\$ 10.40	-\$ 10.40
3	-\$ 3	-\$ 10.40	-\$ 10.40	-\$ 10.40
4	+\$ 8	+\$ 12.30	-\$ 10.40	-\$ 10.40
5	+\$19	+\$ 31.20	+\$ 46.30	-\$ 10.40
6	+\$30	<u>+\$189.60</u>	<u>+\$285.60</u>	<u>+\$569.60</u>
		22 winners out of 64	7 winners out of 64	1 winner out of 64

\*This is an expected value calculation which would be the average result over a long period of time. Actual short-term results would vary in both directions.

a fixed-odds pool card would be a better competitor. It is entirely optional whether the pari-mutuel system should be set up in a way that has only large payoffs to a small number of bettors, or whether it provides for smaller returns to a large number of bettors (for example, those who pick four correct games out of six selections). The disadvantages to the State of having small payoffs to many bettors is that the administrative load of paying winnings is increased and the payoffs to the big winners is decreased. On the other hand, many payoffs tend to stimulate re-betting and to bring in bettors who like to have the pleasure of winning fairly frequently. (Note, for example, that with the six-game pool described above in the third column of the table, a player betting at random would be a winner one week out of three.)

The representatives of the various sports have generally been against legal betting on these sports. The opposition will be strongest to any form of bet which makes fixing a game profitable. (The fact that it is now profitable to fix games does not alter their position.) If it is found to be desirable or politically necessary to meet the objections of this group, a pool bet can be designed to make fixing virtually useless. If the State is looking for a compromise with the official sporting interests, the kind of pool described above represents a kind of half-way position, closer to one position or the other, depending on exactly how high the takeout, how many games the bettor has to bet, and how high a percent of winners he had to have in order to collect.



## IV. CASINOS

A. General Discussion

New York has not had a significant amount of illegal casino activity for some time, and the idea of casinos means very different things to different people in the State. Some think of casinos as glamorous places catering mainly to the rich. Some think of them mainly in terms of sophisticated games with low odds and fast action. For others, the image of the casino is dominated by no-skill games: roulette, keno, rows of slot machines. People whose image of casinos derives from visiting Nevada think in terms of operations which appeal to a mass clientele, while those whose experience is with European casinos think in terms of elegance and high style. For many people, casinos are associated with an unsavory environment--prostitution, loan-sharking, etc.--and with organized crime.

This great variety of perceptions is reflected in the variety of policy positions available to the State. The major options are the following:

1. Limit additional State-sponsored gambling to forms that are currently operated illegally in the State on a large scale; i.e., no casinos
2. Defer serious consideration of a casino-building program pending further experience with lottery-numbers-pool type programs which are easier to design, implement, and control
3. Develop a few casinos, probably in resort areas, as part of a general expansion of State-sponsored gambling
4. Undertake a casino-building program with one or more of these emphases:
  - a. Restriction to resort areas
  - b. Location in or near major population centers
  - c. Design to discourage gambling by the poor
  - d. Design to attract a mass clientele.

For the reasons stated in Chapter VI, we feel that the State would be ill-advised to venture into the sponsorship of casinos at this time. However, many people in the State like the idea of casinos as a means for stimulating the economy of resort areas, and for other reasons. Therefore we have attempted, in the following sections, to describe how New York might go about building up a State-sponsored casino industry, to estimate the costs and revenues, to define the special problems and advantages of State-sponsored compared to private casinos, and to address the question of impact on resort areas and on the State's economy as a whole.

B. Legal Casinos for New York State

1. The Nevada Example

The best way to look at the potential of casinos in New York is to start with Nevada and make the necessary adjustments. Approximately three-quarters of the bettors in Nevada are Californians. One way to think of Nevada, therefore, is to say that California has legalized gambling in some of its resort areas--which happen to be across the State line in Nevada. Since New York is very similar to California in terms of population and wealth, it is reasonable to expect that within ten or 20 years New Yorkers would be gambling in casinos about as much as Californians are.

The total "drop" or "handle" in Nevada in 1972 was about \$3.2 billion. That represents the amount of money put in slot machines and used to buy chips at the gaming tables. Roughly four-fifths of this money was won back by the players and one-fifth was retained by the casinos.\* This "one-fifth"

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\*The amount actually bet would of course have been much larger; when one buys chips one normally wins and loses them several times before finishing playing. The person who buys \$100 worth of chips might make \$1,000 worth of bets and lose \$20.00. This would be described as a "drop" or "handle" of \$100 and gross casino revenues or winnings of \$20.00.

represented \$633 million consisting of \$408 million in game and table revenue and \$225 million from slot machine revenue.

Some 60 large casinos, varying in size by a factor of 20 account for 95% of the Nevada gambling. There is not much excess capacity; during peak periods (summer in the North, weekends in the South) most of the casinos operate at or near capacity.

New York could do, let us say, half the business now being done in Nevada with perhaps 15 to 20 casinos, each one smaller than the biggest casinos in Nevada.\* As detailed below, it is entirely reasonable to expect that New York could build and staff twenty-forty such casinos over a period of 10 to 20 years; that the market would build up at least at a rate that would justify this capacity; and that each could earn net profits of one to five million per year.

A review of the financial reports of several casinos with public reports may give some idea of what might be expected by the State of New York if it instituted a casino program. The Table below was developed from annual reports of the corporations shown. Harrah's and Recrion are consolidated statements of more than one casino. The monetary figures submitted are lumped in some cases under specific categories at the convenience of the corporation.\*\* The Golden Nugget has no lodging facilities

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\*In 1971, Harrah's two casino operations had reported gross winnings (wins less losses, before taxes and operating expenses) of \$61,000,000, approximately 10% of the total reported gross winnings of all Nevada gambling. Some other Nevada casinos have annual gross winnings in excess of \$20,000,000. In such casinos, the total handle or "drop" is normally about five times as large as the gross winnings.

\*\*For example, it appears that "food and beverage" are included in the "lodging" in the Recrion statement.

	HARRAHS & SUBSIDIARIES 1972	RECRION & SUBSIDIARIES 1970	GOLDEN NUGGET INC. 1971	SHOW BOAT INC. 1971
	\$ ROUNDED	\$ ROUNDED	\$ ROUNDED	\$ ROUNDED
<b>Revenues:</b>				
Casino Operations	67,800,000	51,000,000	12,900,000	8,900,000
Food and Beverage	21,900,000	--	3,600,000	2,400,000
Lodging	2,900,000	30,700,000	--	800,000
Other	1,200,000	2,600,000	570,000	670,000
Total	93,800,000	84,300,000	17,100,000	12,600,000
<b>Expenses:</b>				
Casino Operations	20,700,000	21,000,000	5,400,000	3,600,000
Food and Beverage	14,000,000	--	2,900,000	2,200,000
Lodging	1,400,000	20,800,000	--	600,000
Advertising	3,100,000	2,200,000	--	710,000
Entertainment	8,300,000	7,700,000	--	--
Complimentary Accommodations	7,300,000	6,500,000	1,700,000	--
Administrative and General	20,100,000	3,300,000	2,800,000	650,000
Utilities and Maintenance	--	2,600,000	--	700,000
Depreciation	2,900,000	2,500,000	900,000	320,000
Rent	1,500,000	--	--	--
Bad Debts	900,000	2,900,000	820,000	--
Total	80,300,000	75,700,000	15,200,000	9,100,000
Earnings Before Taxes:	12,300,000	8,600,000	1,900,000	3,500,000

NOTE: Totals may not add up exactly due to rounding.

and the Showboat does not indicate that it provides any complimentary accommodations. Presumably, a casino industry run by a Public Benefit Corporation in New York would not offer complimentary accommodations of any kind. Indeed, it would not go into the hotel business, preferring to locate activities where lodging already exists and to allow investment by private interests. It would probably prefer to franchise out whatever "food and beverage" and "entertainment" requirements it feels would be necessary for the success of casinos.

2. Possible Casino-Building Program

a. Direction of the Enterprise

The amendment now before the legislature for a second reading would restrict the State to casinos run by the State itself or through a Public Benefit Corporation; it would prohibit private casinos. Most people feel, and we would concur, that the State should not run a casino industry directly. In the first place, State employees are under civil service and difficult to fire if suspected of stealing; no one we have spoken with thinks a dealer or a pit boss should be a civil servant. Secondly, a State casino division would imply a large bureaucratic entity difficult to create or to eliminate, if necessary, once formed. Thirdly, the PBC may be allowed a degree of freedom which would permit some management decisions that may not be politically practical for a State-run system. The PBC is, then, a convenient compromise between a State system and a privately run corporation.

b. Alternative Casino Concepts

Concept 1. Resort areas only

There are two aspects to this concept. The first is to locate casinos where there are existing hotel and resort facilities and where people like

to go for other reasons than gambling. The other is to keep casinos out of the heavily populated areas, especially the large cities, in order to discourage casual gambling and to reduce gambling by poor people. In principle, this is the "California policy" with shorter distances. That is, the "California casinos" are in Nevada, far away from the big cities of Los Angeles and San Francisco (about 280 and 240 miles respectively by road). This concept cannot be carried out rigorously in New York but, given the limits of New York's geography, an attempt could be made to follow this approach.

#### Concept 2. Casinos for transients

Basically, this is the first half of Concept 1: put casinos in or near those places which are already in the business of attracting and accommodating travelers. But in Concept 2, we do not have the rule of trying to avoid populated areas. Under Concept 2 there would be casinos on or near Manhattan Island.

#### Concept 3. Casinos for New Yorkers

Under this concept, in addition to trying to provide casino entertainment for travelers in New York State, casino entertainment would be provided for all the population concentrations in the State so that most New Yorkers would not have to go very far to go to a casino. (The casinos could be either in the cities or nearby.)

#### Concept 4. Casinos for non-poor people

This concept, which can be combined with any of the geographic arrangements listed above, is for casinos that try to discourage the business of poor people. It is clear that this cannot be done on a complete or reliable basis, but it is possible to put a minimum of \$2.00

or even \$5.00 on bets at the gaming tables, and to use only quarter or half dollar slot machines or, possibly, to exclude slot machines entirely. (In Nevada most slots are nickel slots, and there are some table games that have dime or quarter minimum bets although the \$1.00 minimum is most common.) It is also possible to charge an admission fee or "membership" arrangement to casinos as some of those in Europe do. Unless the casino has an inadequate capacity, such an admission charge would reduce total income, but would tend to discourage poorer players.

Concepts might be combined. For example there might be Nevada-style casinos in the resorts and a high style casino in New York City with a \$10 admission charge and \$5 minimum bet.

c. Description of Facilities and Staffing

A good sized casino (designed in Nevada style for a drop in the range of \$100,000,000 a year) would include 10 to 12 crap tables, 40 to 50 "21" layouts, 2 roulette wheels, a keno or bingo game, and 800 to 1,200 slot machines. Of course, it could begin on a smaller scale and build up to this scale or beyond, depending on the volume of play over time.

Like any other organization, a casino has to be operated efficiently and like any other organization that deals with the public, the people within it have to be motivated and controlled so they do the job in an appropriate way. A most difficult problem is, obviously, preventing cheating. Careful systems and procedures can go a long way in preventing or limiting the amount of cheating. The most developed systems of this kind are those used by the major casinos in Nevada which have elaborate prescriptions of required procedure for all activities and also special physical facilities such as eye-in-the-sky and closed circuit TV systems. Similar

systems could be used in New York PBC casinos.\* But systems are not enough. It is our belief that the key to having casinos run effectively is using experienced casino operators in the key spots in the casino management.

A representative large casino would have a manager, assistant manager, three shift bosses\*\* and about 30 to 40 floor supervisors or pit bosses and 300-400 dealers. Most experienced operating personnel would have to be imported from Nevada. In New York, where there would not be competing casinos and services like complimentary accommodations, the job of casino manager would be much more "professional" and less customer hand-holding. Some of the people who are well qualified to supervise casino operations to whom we've spoken in Nevada indicate they would prefer that kind of job. Fully qualified, first class casino managers could now be recruited at salaries in the range of \$60,000 to \$75,000, particularly if they were given one, two or three year contracts. Assistant managers would expect \$40,000 to \$50,000 on the same basis. Profit sharing arrangements would not be necessary to recruit the kind of people needed. There is some possibility that smaller salaries would be adequate to get people who are

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\*A New York PBC could also imitate the Howard Hughes organization which after buying casinos in Nevada evidently experienced some trouble in their operation, hired a firm run by several ex-FBI men, International Intelligence (Intertel), to take over the management functions. This kind of consulting expertise can be used to prevent cheating. Lower level dishonesty within the organization, and, of course, player dishonesty, will occur no matter what management is established. The idea is to keep it to a minimum, not approved but conceded realistic.

\*\*These estimates assume 24-hour-a-day operation, as in Nevada. New York would not necessarily operate this way. Many European and Caribbean casinos operate with one shift, some with two.

good enough to do the job required. In Nevada today there are probably 100 men or more who are capable of being the casino manager and assistant managers for a large New York casino. In some ways the job in a New York casino may be more attractive to some men than a job in Reno, Lake Tahoe, or Las Vegas.

A shift boss is responsible for the operation of an entire casino for an eight-hour shift. If the casino is to be operated 24 hours a day, three would be required. To recruit shift bosses with extensive experience, New York would probably have to pay about \$30,000 to \$40,000 a year. Currently hundreds of men are qualified for this job and it is quite reasonable to assume that New York could hire as many as it needs until its program had been operating long enough to develop its own, probably about five years.

Recruiting low level supervisors would also be no problem. These first level supervisors, usually called floor men or "pit bosses" can eventually be selected from people who have been dealing for a year or two. Furthermore, there are probably over a thousand people in Nevada and elsewhere who are currently qualified to serve as pit bosses, and a number of them could be recruited for New York casinos. Pit bosses would get salaries in the range of \$15,000 to \$25,000.

Dealers can be trained from scratch and New York could run a school to train all the dealers that its casinos needed, or could arrange to have private schools created to train them. In addition, some experienced dealers should be recruited and this would strengthen the program.

d. The Question of Credit

It would be reasonable for New York PBC casinos to permit the cashing of checks up to, say, \$1,000 for bettors at the casino. Normal kinds of

credit arrangements to protect against bad checks and to collect debts, including the commercial credit checking services available in Nevada and elsewhere, would provide adequate protection against loss for this kind of arrangement (even though the checks would not be legally enforceable debts). We do not believe that the PBC would find it necessary to provide credit beyond this kind of check cashing service. Bettors will be able to arrange lines of credit through banks or by depositing bank drafts, money orders, or negotiable securities if they do not want to carry cash. While some business will be lost by failure to give credit, there will be no place else in the State for bettors to go and the great majority of them would arrange to bet without credit. After all, the tracks do not give any credit and they are able to gross \$1.6 billion a year in betting in New York. (New York tracks do not even take checks and it probably isn't absolutely necessary for casinos to take checks either.) However, some convenient arrangements could be made that would not jeopardize the State's position. For example, commercial banks might be allowed to have offices in or near casinos. A player with established credit could go to his branch and borrow. It would be the bank's responsibility to secure payment.

### C. Profitability

#### 1. Discussion

Our calculations of potential New York State revenues assume that the State has Nevada-type casinos which cater to anyone who will walk in, rich or poor alike. The Nevada state government now makes approximately

\$50,000,000 a year of gross income from casinos. (Regulatory expenses, extra police, etc. reduce the net direct income from gambling.) In addition, probably comparable or larger amounts are made in the form of profits by casino owners.

If New York State put up the capital for the casino industry, it would be entitled to returns on capital as well as to its equivalent of Nevada's tax rate. Moreover, in Nevada there are also profits from entrepreneurship. While a New York State casino PBC would be entitled to such entrepreneurial profits, it is questionable whether, in fact, they would be made, since a PBC would face political and other forces that would tend to limit its profitability. Many of the big Nevada casinos spend on the order of 20% of gross winnings on entertainment and complimentary services for bettors. Some of this promotional activity is designed to attract mass gamblers; this is something a PBC could do. But other activity is directed mainly toward big bettors, and it is estimated that about 20,000 of these bettors (those who lose over \$1,000 a year) account for about 10% of all Nevada casino profits and as much as half of the table winnings of some of the big casinos that especially cater to these bettors.

With respect to these big bettors, we have already mentioned the "hand-holding" aspect of Nevada casino management. In addition, credit is extremely important, and credit includes the acceptance of checks, since checks written to pay gambling debts are not legally enforceable, even if the transaction is made in a state where gambling is legal. Big bettors normally give "markers" (notes) when they get their chips. Any markers which are not reclaimed at the end of the visit are supposed to be paid within a month. Most are paid within two months, but some,

especially very large markers, take much longer to collect. Over-all losses from bad checks and markers are estimated at about 5-10% of credit extended.

We would guess that a PBC would lose most of the big bettors if it had to compete with a private operator. However, if PBC casinos are the only type of game in the State (and adjacent states), most gamblers will use them, even those who would prefer privately operated casinos.

A second advantage often mentioned for Nevada is that, because it is the only state with legal casinos, it serves as the gambling center for the whole country. However, Nevada's remoteness from most of the major population centers of the country somewhat reduces this advantage. In fact, three quarters of Nevada gamblers come from California and even Californians must travel substantially greater distances in order to gamble than would be required for most New Yorkers who had an interest in gambling at casinos in New York.

A third advantage of privately operated, mutually competitive casinos such as those in Nevada is incentive and ability to combat internal inefficiency and corruption. A PBC should be able to do much better in these respects than a state-run operation, but not so well as licensed private casinos. On the other hand, being a monopoly, a PBC could increase its profits, or protect against losses, by giving the players worse odds than do the casinos in Nevada. However, since losses can only accrue from incompetence or theft, this way of assuring profits would mean that the State was sponsoring a system that transferred millions of dollars a year from its citizens to cheaters or to subsidize inefficiency.

## 2. Cost and revenue estimates

The following tables estimate profit and capital costs from a casino building program that is as fast as we think a PBC could go. (If there were a number of separately operated PBC's the program could go faster.) It might well not be possible to expand this fast.

This schedule was calculated on the following convenient and reasonable assumptions.

1. A casino designed for a handle of \$100,000,000 and gross winnings of \$20,000,000 a year will require 14,000 sq. ft. of casino floor space. This casino with necessary equipment, parking, etc. (but without food and beverage facilities, which would be separately funded) would cost \$2,400,000.
2. Casinos will be built in two halves. The first half costs \$1,300,000, the second half \$1,100,000.
3. A half casino takes one year to build and in the first year of operation earns only half its rated capacity (i.e., \$5 million the first year, \$10 million each year thereafter).
4. Separate calculations are shown for assumption that profits are 10% and 20% of gross winnings.
5. Casinos designed to discourage the small bettor (Table 2) would require less space and cost less to handle the same dollar volume. But the market would build up more slowly and to a lower level.

It is apparent that the fixed capital requirements for any of these casino programs are small and working capital is a more significant requirement.

## 3. Stimulating resort areas

New Yorkers gamble extensively in Nevada, the Bahamas, Puerto Rico, and other resort areas that have casinos, probably spending some \$100 million a year on gambling trips. Some of this money would be spent at resorts in New York, if they had casinos, and the patrons would also

"NEVADA-TYPE" CASINO PROGRAM

END OF YEAR AFTER APPROVAL	NUMBER OF FIRST STAGE UNITS	COST FIRST STAGE UNITS MILLIONS	NUMBER OF SECOND STAGE UNITS	COST SECOND STAGE UNITS MILLIONS	TOTAL NUMBER OF HALF UNITS	GROSS ANNUAL VOLUME MILLIONS	PROFIT AT 20% OF GROSS MILLIONS	CASH FLOW CUMULATIVE (NO DEPRECIATION) MILLIONS	PROFIT AT 10% OF GROSS MILLIONS	CASH FLOW CUMULATIVE (NO DEPRECIATION) MILLIONS
1	0	0	0	0	0	0	0	0	0	0
2	1	1.300	0	0	1	0	0	- 1.300	0	-1.300
3	2	2.600	0	0	3	5	1.000	- 2.900	0.500	-3.400
4	1	1.300	1	1.100	5	20	4.000	- 1.300	2.000	-3.800
5	2	2.600	1	1.100	8	45	9.000	+ 4.000	4.500	-3.000
6	1	1.300	1	1.100	10	70	13.000	+14.600	7.000	+1.600
7	2	2.600	2	2.200	14				9.500	+6.300
8	2	2.600	1	1.100	17					
9	3	3.900	2	2.200	22					
10	2	2.600	2	2.200	26					
11	2	2.600	2	2.200	30					
12	3	3.900	3	3.300	36					
13	2	2.600	2	2.200	40					
14	2	2.600	2	2.200	44					
15	3	3.900	3	3.300	50					
16	3	3.900	3	3.300	56					
17	0	0	3	3.300	59					
18	0	0	3	3.300	62					
19	0	0	0	0	62	620	124.000		62.000	

"AFFLUENT" CASINO PROGRAM

END OF YEAR AFTER APPROVAL	NUMBER OF FIRST STAGE UNITS	COST FIRST STAGE UNITS MILLIONS	NUMBER OF SECOND STAGE UNITS	COST SECOND STAGE UNITS MILLIONS	TOTAL NUMBER OF HALF UNITS	GROSS ANNUAL VOLUME MILLIONS	PROFIT AT 20% OF GROSS MILLIONS	CASH FLOW CUMULATIVE (NO DEPRECIATION) MILLIONS	PROFIT AT 10% OF GROSS MILLIONS	CASH FLOW CUMULATIVE (NO DEPRECIATION) MILLIONS
1	0	0	0	0	0	0	0	0	0	0
2	1	0.600	0	0	1	0	0	-0.600	0	-0.600
3	2	1.200	0	0	3	4	0.800	-1.000	0.400	-1.400
4	1	0.600	1	0.500	5	16	3.200	+1.100	1.600	-0.900
5	2	1.200	1	0.500	8	36	7.200	+6.600	3.600	+1.000
6	1	0.600	1	0.500	10					
7	2	1.200	2	1.000	14					
8	3	1.800	1	0.500	18					
9	2	1.200	2	1.000	22					
10	3	1.800	2	1.000	27					
11	0	0	2	1.000	29					
12	0	0	2	1.000	31					
13	0	0	3	1.500	34					
14	0	0	0	0	34	272	54.400		27.200	

require or desire lodgings, food, entertainment, and so forth. Additionally, New Yorkers who enjoy casino gambling but rarely engage in it outside the State, would take many day trips and weekend trips to local resort areas with casinos because of the convenience of access: this would be the bulk of the trade. Third, people who like casino gambling would be drawn to some extent from other states and Canada, although this might soon be matched by New Yorkers gambling in neighboring jurisdictions.

However, there are several problems with the argument that the establishment of casinos would help New York's resort industry and other industries that cater to travelers. There is, first, the question of how much money would be spent in the State that is now being spent elsewhere. If New York State were the only state in the East to have casinos, it undoubtedly would get some business from other states. However, we think that it would be foolish to act on the assumption that New York would be the only other state besides Nevada to have casinos for very long. We think that New York's policies should be made on the assumption that if New York has casinos, other Eastern states, and possibly Canada, will also have casinos. A conservative but realistic approximation is that some time after New York establishes casinos, New York will again be competing equally with other states for the dollars spent by travelers and tourists.

New York State could start the movement and get some competitive advantage by being first, but this does not seem to be a reliable or significant enough advantage to form a basis for making a big decision. If other states, like New Jersey, allow private casinos in place of PBC

casinos, it is likely that they will be more effective in attracting gamblers, particularly the large bettors. In other words, if New York leads the way to moving the competition for tourist dollars to a competition of casino attractions, it could be moving the competition into an area in which it starts off committed to having a second-class attraction.

However, it is still true that if New York established a group of casinos in resorts, the number of people going to these resorts would increase, more people would be employed as waitresses, bartenders, and in all the other jobs required by the travel and tourism business (there is some uncertainty about this, but we will assume it is so). Thus, casinos would superficially seem to be having a large favorable impact on the State's economy, but this would be a misleading impression. Every dollar that a New Yorker spends at a New York resort that he goes to because of the attraction of the nearby casino, is a dollar that he doesn't spend on some other enterprise, probably also in New York. That is, the dollars and jobs that go to New York resort and hotel operators come from New York sporting events, home improvement businesses, movies and other entertainment, or other businesses. The money spent in resorts is not new money, but transferred money, therefore the jobs are mostly not new jobs but transferred jobs.\*

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\*For a number of reasons there may be economic advantages--or possibly disadvantages--in the transfer of business from other industries to the resort and other casino-related industries. But these effects are all second order or marginal effects; the fundamental point is the one noted here that casinos mostly don't create jobs, they transfer them.

D. Separate Operations of Slot Machines and Similar Games

Slot machines produce almost 40% of the gambling revenues in Nevada casinos. Another significant slice of the revenues come from such relatively simple to operate games as bingo, keno, wheel of fortune, and roulette. This would suggest that it would be possible for New York to get a certain amount of gambling activity and revenue without the relatively large and complicated enterprise of starting casinos. "Penny arcade-type" casinos could be opened quite easily,\* or certain kinds of enterprises such as bars, which are already required to exclude minors, could be allowed to have such devices. The potential net revenue might be in the range of \$50 to \$100 million if such devices were made available very widely in the State. The problem of regulation, protection and control of such a widely distributed industry would be substantial. A number of states have had bad experiences with slot machines in the past. No state has attempted to have a PBC set up a slot machine and related game gambling industry. Since there is now no such industry being conducted on an illegal basis, and since it seems to be one of the more unattractive possibilities, we have not studied this idea in any detail.

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\*There are a number of very profitable establishments of this type in Las Vegas.

V. LEGALIZED GAMBLING AND ITS POTENTIAL EFFECT  
ON ORGANIZED CRIME AND CORRUPTION

This section is addressed to those people who are considering supporting the extension of legal gambling because of its possible value in fighting illegal gambling, organized crime, and the corruption of public officials. We will consider how legalized gambling can be used as a weapon against illegal gambling and its likely effectiveness.

A. How Legalized Gambling Can Hurt Organized Crime

1. Taking Business Away

Obviously, increased legal gambling can hurt illegal gambling and corruption by attracting its customers. Since numbers and sports betting are the types of gambling that are important to organized crime, it is the customers for these rackets that must be attracted away in order to hurt organized crime.

The two industries, numbers and sports betting are parallel and somewhat related, but in many ways quite different from each other. The decimation of either of these businesses would be of substantial value in the fight against organized crime and corruption, but the benefit of largely wiping out both of the businesses would probably be substantially more than twice that of wiping out either one. The profits to organized crime from each of these businesses is comparable, probably on the order of \$30 million each. (We should emphasize that the estimate of profit to organized crime is very difficult to make and contains large uncertainties. That is, we would not be surprised if this estimate were wrong by a factor of two.) The two rackets have very different structures and relationship with the community and the criminal justice system. The big bookie, who

handles the great bulk of the illegal sports betting, has an affluent clientele because his minimum bet is typically \$20.00 and many bookies discourage bets below \$50.00. The big bookies employ relatively few people. Most of the industry is probably composed of on the order of 100 "firms" employing a total of perhaps 3,000 people. Because bookmaking is a relatively inconspicuous activity, most of the criminal justice corruption is primarily limited to those elements in the police department specializing in gambling law enforcement, principally detectives and plainclothesmen, and people in the district attorney's offices, courts, and other parts of the system.

There are many more customers for the numbers business, mostly not affluent. The numbers industry has on its payroll five or ten times as many people. Its operations are very visible and therefore it requires corruption of precinct policemen, as well as higher-ups in the criminal justice system.

Bookies may spend on the order of \$10 million per year on corruption, while the numbers racket may spend twice as much. But the money goes to largely different parts of the criminal justice and political system. The numbers people probably pay bribes to many more individuals.

While the total amount from these two industries estimated to be used to pay bribes to people in the criminal justice system is not large compared to the total salaries paid to the people in these systems (police, courts, district attorneys), only about five percent, it is not inconsiderable and amounts for example to perhaps \$1,000 per man on the police force annually.

If there are \$30 million in gambling corruption payments in the State each year they might be distributed approximately as follows: perhaps

5,000 men getting an average of \$2,000 per year, perhaps 2,000 getting between \$3,000 and \$8,000 per year, and another 1,000 getting more than \$8,000 per year. This would be something like 8,000 men in total receiving corruption money, or equivalent, on a statewide basis. This would include payments to police, to judges, to District Attorneys, to other criminal justice personnel, to legislators, to political parties, charitable contributions in people's name and other "influential" activities. While these numbers are astounding, we think they are a reasonable estimate. They are consistent with what experienced observers of the criminal justice system understand, and what is generally known by policemen and other insiders, as well as being consistent with the financial estimates.

It is possible to have quite a lot of legal gambling without cutting into the business of the illegal gamblers. In fact, today legal and illegal gambling in New York are roughly equal in scale at a level of about \$2 billion per year each (leaving aside private betting). With casinos the amount of legal gambling could easily be multiplied by five without any substantial interference with organized crime gambling revenues. Apart from casinos it probably would be possible to add some hundreds of millions of dollars per year of legal gambling without interfering with illegal gamblers.

Legalized sports betting could even help the bookmakers, if it were oriented toward the small bettor. By and large the bookmakers do not now service the potential market of small sports bettors. There is reason to believe that there is a large potential demand for small-bet sports betting. If a legal system supplied this demand, new bettors would be created, and some of them might well go on to betting with the bookies as they are able to afford larger bets. These new bookie bettors might out-balance those

bettors the bookies lost to the legal system, if the legal system were not attractive to the existing customers of the bookies.

2. The Use of New Legalized Gambling as Part of a Broad-Scale Attack on Illegal Gambling

Up to now the attack on illegal gambling and the corruption it supports has been half-hearted at best. This is partly because of corruption and partly because of low public interest in suppressing gambling. Part of the reason for the low public interest in fighting gambling is that a larger part of the public gambles and/or believes that gambling is a relatively innocent amusement, and perhaps even that people have a "right" to gamble.

Perhaps the primary importance of legalized gambling in the fight against illegal gambling is that it might be the basis of obtaining the public and political support necessary for a creative and sustained attack against illegal gambling. The argument would be that since legal gambling provides a legitimate outlet for people's "right" to gamble no justification remains for illegal gamblers. To the extent that people who are now gambling switch to legal gambling, they will be moving to a position which permits them, without a feeling of embarrassment, to oppose illegal gambling and perhaps to support an attack upon it.

Several points against this argument need to be noted. First, legal gambling undercuts the moral fervor of an attack on illegal gambling per se. "How can gambling be so bad if the State is conducting the largest gambling enterprise?" On the other hand, this moral fervor against gambling does not exist among very many people, and it is already undercut by better than \$2 billion a year of legal gambling on horses, bingo, and lotteries.

But by the same token, one can also say today that there are plenty of forms of legal gambling, at least in New York City, so that there is no justification today for illegal gambling. However, illegal gambling is substantially different from legal and those who play the numbers and bet with bookies have gambling interests many feel are legitimate and not met by the existing legal gambling opportunities.

What would a broad scale attack on illegal gambling include?

- (1) Competition for customers (discussed above)
- (2) Criminal prosecutions with prison terms

Only one person has been given a prison term since the definition of gambling felonies was expanded in 1960. Prison terms for gamblers, even if for relatively low-level employees in effect increases the cost of doing business for the bookies. For this to be a significant factor it would probably be necessary for something like a hundred people or more to be sent to State prison for over a year (i.e., it would have to be felt by something like 45% of the industry personnel). This probably would require about 4-8 fulltime Supreme Court parts (including judges, clerks, district attorneys, legal aid, etc., which would cost about \$2-4,000,000 per year). It would not be a significant increase in our prison population, which is now about 13,000.

Since New York City is now sending less than 600 men a year to prison (for felonies) after trial, it would not be a reasonable use of criminal justice system resources to try to put 100 bookies a year in jail. There would not

be much use in putting only a few in jail, unless it were possible to get the principal operators.

In effect, the criminal law is not available as a tool to carry out a policy against gambling. The system has broken down almost completely.

(3) Civil actions against bookmakers

This would include injunctions, income tax law enforcement, and the enforcement of various areas of State and Federal regulatory and tax laws applicable to all businesses including bookmaking. The use of these statutes would be useful primarily as a way of economizing on police and court time in applying sanctions against bookmakers. That is, there are efficient ways for the government to legally and properly add to the difficulty and cost of doing business for the bookies. These remedies primarily require lawyers' time. Some of the lawyers would be district attorneys, but this approach would also permit the use of people from the Corporation Counsel of the city, the State Attorney General's office, and Federal officials from IRS and other agencies. A substantial degree of effectiveness might be expected from a commitment of perhaps a hundred lawyers which, with associated personnel, would cost on the order of \$5 million a year. Much or all of this cost might be recovered by seizures of cash, fines and civil penalties.

- (4) Campaign to get the bettors to stop betting with bookmakers  
Part of this would be a positive appeal to the bettors. It starts with the provision of legal alternative to the bookmaker but goes beyond that. It would be a campaign to say to the bettor that the bookmaker supports organized crime and corruption, that he indirectly helps the drug pusher, extortionist and others who threaten society, that the State is getting serious about trying to do away with illegal gambling, and that the bettor should cooperate in this effort.

Combined with this positive appeal to the bettor there should be a negative appeal. Those who bet with illegal bookmakers should in some cases be required to testify to grand juries or in trials. Their names should not be concealed by the police. Information about their betting should be provided to the IRS and to the New York State tax authorities, and to other law enforcement officials so that the source of the money used for illegal betting can be inquired into. Now the bettors are protected by the police. If only one person out of 100 who bets with bookies finds himself embarrassed or in trouble as a result of doing so, it is likely that many of the bookies' customers will stop betting or bet with the legal system.

While it is true that in the competition with the legal betting system the bookie is able to offer anonymity, it is possible to turn this against the bookies. It would be reasonable for law enforcement agencies to concentrate a significant share of their limited resources on leads

developed as a result of apprehending bookies and tracing their customers. It is relatively easy to get the names of many bookie customers. If it becomes true that by being a bookie customer one risks drawing the attention of law enforcement officials, people who have something to hide may then stay away from betting with bookies. A bettor who does not want to draw attention to himself might be better off betting legally, hoping that his activity will be lost in the crowd of legal bettors, than he would be betting illegally and knowing that if his name were exposed, his activities would be closely scrutinized, and the evidence of his betting activity used against him.

This campaign against those who bet with illegal bookies would require only a marginal increment in the number of lawyers and investigators involved in the attack on gambling, at an additional cost of less than \$1 million a year.

B. Could a Broad Scale Attack on Illegal Gambling be Effective?

We believe that if the kind of attack described above (without much use of prison terms) could be mounted and sustained for three to five years, there would be a good chance that the amount of illegal gambling could be very substantially reduced (perhaps with the result that much of the bookmaking business is moved out of the State). If it is extraordinarily successful the reduction in bookmaking might proceed in two stages. Today something like 25,000 bettors may be providing most of the income to the bookies in the New York City area (which is most of the bookmaking in the

State), producing on the order of \$100 million a year of gross winnings to about 75 major bookmakers. The first stage of a successful attack on the bookmakers would drive away all but the biggest bettors. It might leave a thousand bettors losing an average of \$25,000 a year, or a total of \$25 million a year to, say, five remaining bookmakers. Because of the small number of transactions and the large dollar value, these operations could be conducted very clandestinely and the bookmakers could afford a high cost of doing business. The second stage would be an attack on this small but rich system of illegal betting. It is difficult to know whether such an attack could succeed, but the fact that the target is so small would certainly help. In any case, success in the first stage would probably be very valuable to society, even if the second stage could not be done successfully.

C. Should a Major, Broad-Scale Attack on Illegal Gambling Be Made?

The really hard question is probably the political feasibility of sustaining the political and other support necessary for an adequate attack on illegal gambling. But before this question can be evaluated it is necessary to ask, does it make sense to commit the resources necessary for such an attack? Since the attack would not make extensive use of the criminal justice system it probably does not demand a great commitment of resources. The primary commitment required would be leadership.

The rationale for making a major attack on illegal gambling is not that gambling per se is particularly evil or dangerous to society. The reason for making such an attack is that the organized crime and corruption supported by illegal gambling is bad enough to justify a major effort to eliminate it. No one would deny the desirability of having a criminal

justice system that is freer of corruption, but is it important? With all of the problems of government, all of the crime that is clearly bothering the population, all the other forms of corruption, is it sensible to be very concerned about gambling corruption? The answer is by no means clear. We would argue that a good case can be made for making a commitment to devote resources to a serious attack on gambling corruption because corruption reduces the effectiveness of a police force (and the rest of the system) not only against gambling, but against many other crimes, and because gambling corruption is the single most important part of the system of corruption.

Ostensibly the necessary negotiations for protection of gambling are discussed by the criminals and thought of by the public officials as "gambling protection." De facto, this is not true. When such a corruptive alliance is established the protection that is purchased and afforded goes far beyond gambling. The "protected" individuals in fact purchase an almost complete immunity from the law for many other illegal acts in which they may be involved. They are in fact "protected" not only from the acts of the officials they have purchased, but in fact from any action that might be taken by all of the non-corrupted if their confederates can learn of such contemplated action. The corrupted officer has a vested interest in trying to see to it that no one, in or out of the criminal justice system, does anything that might throw his corrupt arrangement into disarray.

If the alliance is established to protect a given location, that premise becomes in fact a privileged sanctuary for many kinds of activities that go far beyond gambling. For example, if a social club is "tolerated" by the police because its back room is going to be used in the late morning

and early afternoon hours for "protected gambling" the immunity will go much further. The same location could be used from 8 p.m. to midnight for bagging heroin and it would enjoy some of the same immunity; it could be used to assault delinquent borrowers of a loanshark operation between midnight and 2 a.m. If someone were being murdered at that location at 4 a.m. the police officers on patrol would be influenced to some degree by the fact that when he is working certain tours of duty he picks up the payoff money for "gambling protection."

The discovery of widespread corruption in narcotics enforcement is attributed by many expert observers in part to the gambling enforcement corruption that has existed for some time. These were the findings of the State Commission of Investigation Inquiry into the narcotics enforcement effort of the New York City Police Department (1971) and the findings of the Knapp Commission investigators (1972).

The opinion of New York Country's District Attorney, Frank Hogan, to the Editorial Board of the New York Times were summarized:

Some police subdivisions are indeed suspect. He had warned against bolstering the narcotics squad with members of the public morals squad, and, when it was done anyway, "they brought their larcenous instincts with them." (The New York Times, October 12, 1972, p. 81.)

In many smaller police departments throughout the state, the same unit is assigned to gambling and narcotics enforcement.

Corruption tends to undercut public confidence in the police and public support of the police. Both of these are important in controlling street crime and other police activities.

In general, there is reason to believe that our government may be having some difficult times in the years ahead. Certain kinds of internal

strains are severe. During such a period a sound, well-controlled police force and court system, which merit and have public confidence and support, may be crucial to the well-being of the society. Furthermore, a victory over corruption might be an important achievement and help make people believe that the government can have successes, and could help to raise the morale of the State.

D. The Hard Question: Is There Political Support for a Sustained and Concerted Attack on Illegal Gambling?

We have argued that there is good reason for the Legislature to believe that if it decided to make a major attack against illegal gambling and the Executive Branch joined in such a decision, it would be possible to mount an attack which could have a reasonable (but less than even) chance of succeeding within five years to reduce very sharply the amount of illegal gambling and the corruption that it supports.

We have also argued that there are good reasons why the Legislature and the Executive Branch should decide to undertake such an attack. To some extent this is a decision the Legislature and the Executive can make. But to some extent the decision can only be effective if it is supported by the public--especially the press, the judiciary, and the individuals who man the criminal justice system. The danger is that the public will say that the police, the courts, the judges, the lawyers and the Governor should not be wasting their time and attention on something as unimportant as gambling. Any broad scale effort to change a major social system such as the illegal gambling-corruption system will meet with significant resistance. Part of the resistance will come from those who have been acting illegally, but that will not be all. There will be resistance from

people who are just reluctant to change, and from those who are disturbed by implications that they have not been doing their job well. Other people will resist because in a bureaucracy any action is resisted by those who are left out or those who stand to lose in the bureaucratic race, or for other reasons. The forces of negativism are always there. (The forces of corruption would also be working against the anti-gambling drive.) It is very hard for the government to overcome these negative forces unless there is broad public support for the objective. There is not, and there almost certainly will not be, broad, strong, public support for the objective of eliminating illegal gambling per se. There may be, although it is very uncertain, adequate public support for the objective of cleaning up the criminal justice system and getting a more honest police force and judiciary. American standards about how much corruption they will tolerate may have changed in recent years. Previously throughout the country, illegal open casinos were widely tolerated. During the postwar period these casinos have largely disappeared. One of the reasons may be that many Americans came to the decision that this kind of flagrant illegality and corruption was unacceptable. (Of course, other factors also played a role.) In recent months there has been a great deal of public attention to corruption issues; it is possible that there is a strong wave or at least undercurrent of public concern and potential public support for an attack against gambling corruption. But basically we think that the necessary initiative and sustained commitment will depend on strong governmental leadership.

E. If the Attack Against Illegal Gambling Works, What Will Happen Next?

While one can imagine the State mounting a sustained, fairly expensive, creative and aggressive attack on illegal gambling for three to five years, it is not really believable that such an effort could be sustained over ten or twenty years. Does this mean that it isn't worthwhile making the effort? We don't believe so. If the initial attack against illegal gambling is successful, it will not have to be continued permanently. For one thing, if legal alternatives are established, bettors will get the habit of betting with the legal system. Perhaps more importantly, the system of corruption that the bookmakers have built up over many years will be broken. Bookmakers would have to start again and they would have a hard time with their initial customers raising enough money. It is hard to corrupt a small piece of the police force if most of the police force is interested in avoiding corruption. Therefore, after most of the bettors had been transferred to betting within the legal system or induced to get out of the habit of betting and most of the bookmakers had been put out of business, the governmental effort against illegal gambling could be sharply reduced.

It is not unreasonable to assume that even if the argument above, optimistic as it is, is correct, then at some time in the future--perhaps 20 or 30 years from now--illegal gambling and corruption might again build up and become a significant factor in the criminal justice system. But if this were true, the attack against current corruption would not have been wasted. It is a very worthwhile objective to clean up the criminal justice system for a generation, even if the next generation will again have to solve the problem.

The judgment of whether or not a broad scale, sustained attack against gambling could succeed is a difficult one. On the one hand it must be recognized that illegal gambling has not been eliminated or nearly eliminated in any major city in the country for any sustained period of time in this century, so far as we know. On the other hand, such an attack as we describe has never been tried; in particular there has never been simultaneously a big attack on illegal betting combined with offering a legal alternative to the bettor. One of the reasons we think there is a hope of success that this kind of attack can be sustained is that bookmaking is a relatively low-profit business and therefore vulnerable to having its costs raised. That is, we would estimate that the big bookmakers' net profits are only  $2\frac{1}{2}$ -5 percent of the total betting volume.

F. What Does Organized Crime Do If It is Forced Out of the Gambling Business?

While some people react to the idea of a major attack on organized crime's gambling activities with skepticism that the attack can succeed, other people ask whether or not success is worthwhile. They argue that if organized crime is forced out of gambling, it may turn to something that is worse for society. So here we will consider whether or not society would be better or worse if organized crime were not involved in gambling in the way that it is today.

There is some possibility that the elimination of organized crime's gambling enterprises would stimulate it to new activities that might be more harmful to society. But for the reasons discussed below, we believe that this is a rather unlikely result. In the first place, organized crime now operates in a number of areas including many normally legitimate

businesses, and anything that it would get into as a result of being eliminated from gambling, it might well get into anyhow, and if it still retained its gambling position it would have the profits and corruption that come from its gambling positions to help it in its other enterprises.

While it may be useful for society that gambling occupies the attention and tends to satisfy the needs of some members of organized crime, a stronger effect of gambling is that it provides money for organized crime to use elsewhere. Perhaps even more important than the profits is the large and generally accepted, if not legal, organization conducting the gambling enterprise, and the political and criminal justice system connections established to protect the gambling, but usable for other purposes. In other words, gambling is probably much more likely to help organized crime get into other activities than it is to entice them away from other activities.

Organized crime has been seriously hurt by police action (local and federal) within the last few years. It seems worthwhile to hit it in every way possible in order to attempt a major reduction of its power. This does not seem to be an appropriate time for low morale in the fight against organized crime. We do not believe that it is useful to assume that if you hurt them in gambling they will be able to hurt you worse somewhere else. While that possibility cannot logically be ruled out, it seems relatively unlikely.

The following are some of the areas in which organized crime might attempt to increase its activities to make up for its losses while being eliminated from gambling: The primary direction of movement may well be one which is already underway, which is shifting into legitimate businesses,

using illegitimate techniques such as coercion and blackmail. Loansharking might increase, although the cut-off of gambling profits would tend to limit the ability of organized crime to invest more in usurious loans. It is possible that organized crime would move more significantly into prostitution, pornography, and other sex-related enterprises.

G. Other Effects of Success

What do the other employees of the illegal games, principally the runners, do if illegal gambling is largely wiped out?

Those runners, or others, for whom gambling is a sideline, producing extra income, will generally have to accept a lower standard of living. While presumably many of them will look for an alternative source of a second income, mostly they will have a difficult time finding something as easy and lucrative as gambling.

Those employees for whom gambling was the principal source of support or sole occupation will have to find new occupations. Presumably they will think first of illegal occupations, and thus there will be a large increase in the supply of illegal labor. However, we have seen no analysis to indicate that society is much protected because this labor is now in short supply.

In general, our society faces each year much more technological or other unemployment than will be caused by shutting down illegal gambling. There is no reason to think that society is in such poor shape that it cannot afford to put criminals out of work.

To the extent that the runners are now providing a service to bettors (rather than merely having monopoly access to the betting system), they will be able to sell such services after the legal system is established. For example, if little old ladies who do not wish to leave their apartments want to have their numbers taken from their homes, a former runner can go in the business of running errands for such old ladies. They can charge a quarter a ticket, or whatever the market will bear, for the job of going to the betting shop and placing the number. If there really is a social need for this service, a supply will arise to fill the demand and the supplier might just as well employ experienced personnel with established contacts.

## VI. SOME GENERAL ISSUES

A. Some Comments on Promotional Activities

We often hear the statement that it is one thing for the State to run or sponsor gambling operations, but another thing to "promote" them. This is a sensible statement, in the abstract. For most people, gambling is not a vicious addiction but a relatively harmless diversion. Legalizing gambling is an appropriate response to this fact, and giving state-run or state-sponsored organizations a monopoly of certain forms of legal gambling is probably the best way to assure that these operations are managed in conformity with law. On the other hand, few would regard gambling as a desirable activity, even if the comparison is restricted to recreational pursuits. For the State to vigorously promote use of its parks and beaches carries quite different connotations than vigorous promotion of gambling. While parks and beaches undoubtedly pose greater risks to physical health than do OTB parlors, we regard their use as a healthful activity. We do not worry about their over-use by individuals, but only by the aggregate, where capacity is strained.

By contrast, capacity is not a problem where gambling is concerned; it can be expanded to meet demand--and this is the heart of the issue. Given effective promotional activities, how many people would spend how much money and how much time on legal gambling? We do not know the answer, but a consensus could probably be reached at the judgmental level: too many people, too much money, too much time. The issue resembles the current controversy over advertising on children's television programs. We feel that the public is susceptible to encouragement to gamble more, and that this susceptibility should not be exploited.

It is possible to develop a gambling system responsive to this line of reasoning. Such a system would make gambling available to those who wished to gamble, but with no more fanfare, style or ingenuity than is involved in making rest rooms available to the public. In the term employed by the British, these operations would appeal exclusively to "unstimulated demand."

However, as the British well know, "unstimulated demand" is not an absolute but a relative concept. Anyone who wins at gambling is, for a period after his win, a walking advertisement for the system. Thus, favorable odds are themselves a promotional device. So is the sheer number of betting facilities provided, and any other measure, such as publishing winning numbers, that caters to the convenience of bettors: the more visibility the operation has, the more will demand be stimulated.

Thus, even a system designed exclusively as a service for existing bettors is bound to create new bettors and is very likely to increase the betting activity of those who formerly bet illegally. However, this aim is not foremost for most people who advocate expanded legal gambling in New York. Whether their main interest is increased revenue for the State or competition with organized crime, a ban on overt promotional activity is counterproductive. Given a revenue emphasis with relatively poor odds for the bettor, there is an obvious requirement for facilities that are pleasant and convenient and easily identified, for an interesting menu of ways to lose money, and for publicity of big winners. Advertising to convey the message that gambling is fun need not be an initial feature of such a system, but pressures to mount a campaign of this kind would become strong whenever

revenues fell below projections. Even if the response to a drop in volume was to improve the odds, it would hardly seem sensible to institute this change without advertising it.

In the alternative case, where the system is mainly designed to beat the illegal competition, the focus is theoretically on "unstimulated demand": the people who are now betting illegally. However, because the State cannot match all the advantages of the illegal operation, successful competition means offering additional advantages, and publicizing these. If payoffs are higher and/or the odds on winning are better, much of this advantage is dissipated in the absence of advertising. Also, as with the revenue emphasis, an alluring menu of games and attractive, convenient places to bet are important in drawing customers away from the illegal market. But all of this operates as well to create new bettors and to induce both old and new bettors to spend more money.

In considering what promotional activities are appropriate or desirable for a New York State gambling PBC, policy-makers have the advantage of being able to study the two existing operations in the State, the Lottery and OTB, which represent different styles of promotion partly by choice and partly for structural reasons. Promotion of the Lottery has the following characteristics:

1. Advertising primarily by trademark.
2. Many and convenient sales outlets piggybacking on existing commercial operations.
3. Agents paid by commission (incentive to promoting sales).
4. Publication of winning numbers; human interest stories about big winners.
5. Relatively low unit price.

These tactics promote impulse betting by former non-bettors, and they facilitate the habit of regular small betting, for instance, with the change from one's grocery purchases. They minimally glamorize gambling, and they do not facilitate betting large sums. To date, the result is that many people patronize the lottery (according to the Quayle survey, two-thirds of adults in New York City), but the volume of betting has not met initial expectations, nor come up to the per capita levels in some other states.

New York City OTB has a very different character. Betting is restricted to special parlors, reducing recruitment of new bettors. (The parlors are forbidden to provide attractions to customers, such as chairs, food or even cigarette vending machines.) Sales personnel are salaried, lacking the incentive of commissions. The unit price is relatively high. The betting procedure and options are complicated compared to buying a lottery ticket; we may suppose this inhibits the novice who does not want to be shown up as stupid.

Given these characteristics of OTB, its potential market is largely restricted to existing horse bettors, acquaintances of these bettors whom they bring into the system, and relatively self-confident, sophisticated people who are attracted by forms of betting that require skill as well as luck and are not deterred by complexity.

The promotional strategy of OTB has thus far had two principal components:

1. To convey an image of the operation to the non-participating general public as healthy, colorful, and exuberant, rather than as shabby, vaguely disreputable, and patronized by peculiar people; and

2. To maximize the volume of betting within the restricted market by providing conveniences (such as telephone bets), a variety of betting options, and so forth.

The first aim, of a good repute with the non-participating general public, has also been expanded, with the highly publicized employment of ex-addicts by OTB, to include the concept of the organization as "doing good."

If the State decides that all of its existing gambling operations (except for on-track horsebetting ) and all new ones should be conducted by a single PBC, the foregoing comparison suggests that it is probably disadvantageous to think in terms of a single set of policy directives even for advertising, and impossible to do this for many other promotional activities. What measures constitute excessive encouragement to gamble differ with the form of gambling and the nature of the distribution system. What measures are necessary for the internal health--efficiency, morale--also differ with sub-system characteristics: for instance, as cited above, with the use of salaried employees or agents operating on commission.

The complexities recommend a frank rejection of the principle that it is all right for the State to sponsor gambling, but not to promote it. Promotional activity is unavoidable. The issue is the style appropriate to particular situations and aims. Should promotion of a legal numbers game be conducted in the somewhat mechanistic style of the New York State Lottery? After all, numbers is a lottery. Or should it be conducted with the flair and color of OTB promotion--after all, as with OTB, the focus would be on wooing people who are already doing this kind of gambling elsewhere? Obviously, these are not either/or questions, but thoughtful answers to them are one of the major factors affecting the success of the PBC by all standards of measurement.

B. Comment on the Role of the Federal Government in  
New York's Thinking on Legalized Gambling

There is currently a good deal of federal legislation which would have, at least to a minor degree, effects on legalized gambling in New York State. This federal legislation reflects two motivations. The first is a general opposition to gambling which remains more strongly in many parts of the country than in New York (which, of course, has moved, with the lottery and OTB, more in the direction of legalized gambling already). The second motivation of much of the federal legislation is to attack illegal gambling and its contribution to "racketeering." However, in many cases, the laws drafted against illegal gambling also apply against legal gambling and would inhibit efforts to construct legal alternatives to compete with illegal gambling.

If New York were to decide to follow a policy of using legal gambling more than it does now, either to raise revenue or to attempt to compete with illegal gamblers, it might begin an attempt to get some of the federal laws changed so they distinguish between legal and illegal gambling (or perhaps between profit-making gambling and gambling conducted for the benefit of the states). The key federal laws or regulations involved are those prohibiting the transmission of gambling information across state lines, and the federal income tax. If the State wanted to do sports betting on a non-pari-mutuel basis, the 10% federal excise tax would also be important because the exemption is limited to pari-mutuel betting.

The current views of the legislators in Washington, particularly those who have been most concerned with these laws, make it unlikely that it will be easy to get revisions. However, the trend of decision on this issue is probably moving, although perhaps slowly, toward a more

favorable position to legal gambling. And it would be somewhat easier to get limited changes made so that the rules passed against criminal gambling are not applied to state gambling.

Federal income tax laws are a basic problem that any legal competitor to illegal gambling must face. In theory, of course, illegal winnings are as taxable as legal winnings. But the illegal winnings do not normally come to the attention of the IRS. (As we have noted elsewhere we believe that the IRS should make a special effort to inquire into the illegal winnings--and other income--of those bookie bettors who come to their attention.) Legal gambling winnings must be reported by the betting agency to the IRS if they are over \$600 and over 299 to 1. The reason for the very high odds rule is partly the convenience of the gambling system, and partly because of the assumption that winnings at low odds are matched by gambling losses. Of course, only net gambling winnings are taxable, although all winnings are supposed to be reported.

The following is a case for changing the law so that it does not treat gambling winnings as income. (This is the British rule.) Very few gamblers are net winners in any year, and even fewer are net winners over their lifetime. It would be simple and convenient for the Federal government to simply exclude all gambling winnings, since they are only entitled to tax net winnings anyway. There is no substantial cost to the Federal treasury of excluding gambling winnings because there aren't very many, and much of those that exist are not currently taxed.

The one case where the gambler really is a winner, is the person who is a big winner in a lottery. His one-time winning will probably be much greater than his lifetime losses. On the other hand, there are very few of these and their symbolic significance is much more important than their

financial value to the Federal government. Since these winners are all beneficiaries (in some sense agents of) state governments, there is not a great deal of sense in the Federal government taxing these winnings. Furthermore, the effort and cost by the winner is so small in proportion to the size of his gain that his winnings could be thought of as analogous to a gift or to an unsought honorific prize, both of which are untaxed (to the recipient).

But the primary reason for the Federal government not to tax gambling winnings is that the existing law discriminates in favor of illegal gambling, when the government should be preferring legal gambling.\* It is for this reason that New York State, if it wishes to expand its attack on illegal gambling by competing with it ought to use its influence with the Federal government to try to get the tax law changed.

Of course New York State could change its own laws to exclude (non-professional) gambling winnings from the State income tax.

If New York State decided not to have casinos and desires that neighboring states not have casinos, it might be worthwhile to explore the possibility of federal legislation which would prevent neighboring states from opening casinos that would attract New Yorkers. Such "anti-casino legislation" could exclude states now having legal casinos and so could be enacted without interfering with Nevada gambling, which has wide acceptance and a large amount of investment involved. The purpose of this legislation would be to prevent a "casino race" in the East and to preserve the practice of having a single location for casinos in the country. It could

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\*If the law were changed to leave gambling winnings untaxed, some special provisions would need to be made to keep this from being used to conceal illegal income.

be enacted as a temporary measure until the planned federal study of gambling is completed, or to ensure interstate coordination of decision.

C. The Alternative of Legalization of Private Commercial Gambling

While the amendment that has passed the first reading in the New York State Legislature would authorize only gambling activities conducted by PBC's or by the State government itself, consideration of this proposal requires thinking about the alternative of legalizing privately operated gambling activities. The question is different for each of the three major types of gambling discussed in this report, but a few general considerations can be discussed before considering specific areas of gambling.

There are apparently two different impulses that lead one to consider private commercial gambling in preference to State- or PBC-run gambling enterprises. The first of these is a sense of a limited moral taint to gambling, combined with a sense of the moral, symbolic, and teaching role of the State. Many people would argue that although it might be perfectly all right for people to gamble, it is not appropriate for the State itself to encourage this activity, to engage in it, nor to profit from it. For some people a lesser degree of these moral feelings may be combined with a strong sense that the State ought not to engage in what is essentially at best a business activity, and certainly not a governmental function. Part of this reluctance to use the State is a response to the divided moral feelings in the community. There is at least a substantial minority of the community that has some degree of moral objection to gambling. While this moral objection might well be judged not sufficient to require others to conform, it might well be thought inappropriate to have the State government, which represents all

of the people, and hopefully their "better" side, not engage in activities which are morally objectionable to a sizable section of the population.

These views are matters of values, taste, and style, and not much light can be shed on how the State should resolve these issues by analysis. The only matter of fact that seems relevant is to note that historically many states have conducted gambling activities for profit, as indeed have many churches.

The second major argument against State (or PBC) conduct of the gambling enterprises is that the State will not be able to do as good a job as private industry. This issue needs to be considered separately for each type of gambling.

#### 1. Numbers Lotteries

The case for private operation is weakest when applied to the numbers lottery. Lotteries are the kinds of gambling that the States have most commonly done through history, and of course, New York State is now engaged in another form of lottery. A lottery is the most "bureaucratic" of any kind of gambling activity and for this reason more suitable than others for operation by the State or a PBC. Furthermore, the nature of lotteries, their requirements for wide distribution, are such that they tend to suggest at least licensed if not regulated regimes. However, some economists would argue that competition by itself could adequately regulate the private lottery business. This may be so, but it seems unlikely to get a fair test in New York State in the 1970's.

Private ownership of numbers lotteries would almost certainly result in an attempt by the existing numbers operators to remain in the business

and to protect their share of the market by illegal coercion against potential competitors. As existing operators, they would also have some substantial competitive advantage, although probably not enough if competitors were allowed to operate freely.

Over-all it seems reasonable to believe that the forces of law and order are not strong enough to allow for good hopes for an experiment with private legal numbers. If there is any substantial degree of regulation involved in private numbers, the problem of corruption would be quite substantial, although the state would be better off if the corruption were moved away from the criminal justice system.

## 2. Sports Betting

Here the case for private operation is strongest. We have argued that a PBC could offer pari-mutuel head-to-head betting, but this might not appeal to those people now betting with bookies. Theoretically a PBC could compete with bookies by acting like a bookie. It is possible to hire ex-bookies to run a betting operation. However this would be politically unacceptable and unwise because it would incur risking tens of millions of government dollars on the basis of one man's judgment in a situation where cheating would be easy and suspicion high. The basic argument for private bookmaking, like that in England, is that it is quite easy to believe that the government can neither prevent private bookmaking nor take its business away by competition, or that it is not appropriate for the government to compete because it would change sports, and therefore legalization is the only way to keep that activity open and prevent the corruption involved.

In thinking about what would happen if private bookmaking were legalized, as in Nevada as well as England, the first thing to note is that because of the Federal Excise Tax much of the gambling would still be done illegally. There might be separate illegal operators, or the legal bookies might also operate concealed bets to avoid the federal tax. The bookie's basic margin on sports bets is 4 1/2%. This means that the bettor must be right about 52% of the time in order to win. If the federal 10% tax is taken out of the bet, the player is paying 13% instead of 4 1/2% margin for his essentially even money bet, and must be right more than 57% of the time in order to win. Many players would not be willing to pay this tax. Therefore a state pari-mutuel system might be a better competition to the bookie than a private legal bookie, so long as the Federal Excise Tax on gambling stays in force.

A number of countries do not tax gambling winnings, on the theory that winnings and losings balance out and that in the long run no bettor is a winner. Attempting to tax the winnings merely tends to drive the gambling underground. But as noted in the discussion of the Federal law, there seems to be relatively little chance in the short term for changes in the Federal tax laws in this area. (Incidentally, the present federal income tax laws would interfere with state operated bookmaking as much as privately operated bookmaking.)

If private bookmaking were legalized and the Federal Excise Tax on betting removed, it seems almost certain that organized crime would try to control the business, or at least to operate or extort tribute from a large share of it. This is true because of the history of organized crime's relationship to gambling. It isn't clear whether or not the

attempt by organized crime to retain a dominant position in bookmaking would succeed. On one hand many of the people who would go into the bookmaking business based on having experience with bookmaking, are people who are used to having the protection of and going along with organized crime. Many of these people would be disinclined to fight an effort by organized crime to organize a legal bookmaking industry, others would be more independently inclined and depending in part upon the effectiveness of the police in protecting them, might well succeed in resisting attempts to be controlled or to have tribute exacted from them by organized crime. Bookmaking requires a certain amount of skill and in economic terms is most effectively done by someone who wishes also to be a bettor. (If he is a good bettor, he makes money as a bookmaker; if he is a poor bettor, he goes broke, having subsidized his customers.) It can be conducted on a small scale, although it has fairly high capital requirements. Many small scale operators also depend upon the availability of layoff betting facilities. These facilities might be the medium which organized crime could use to dominate the bookmaking industry.

### 3. Casinos

We do not believe that it is reasonable for New York State to try to run a casino itself. Therefore if there are to be casinos the choice is between private casinos and PBC casinos.

As stated in Chapter IV, the basic argument for private ownership of casinos is that private entrepreneurs can do a better job of running casinos both in the sense of making them more fun for the customer, and more profitable for the owners, than could a PBC. This is almost certainly true.

The basic argument in favor of PBC casinos is that private ownership of casinos will create excessive political pressures on the government and will make the casino business more difficult to control. A private casino business can be successfully regulated, but New York cannot be confident that it can succeed in doing so over a long period of time. The controllers have less incentive to persist than those being "controlled." We believe that the argument for PBC casinos is a good one, even if it means duller casinos and lower profits.

D. The "Victimless Crime" Argument

In recent years the phrase "victimless crime," and the idea that the only way to deal with victimless crime is by eliminating the laws against it, have grown increasingly important. The basic concept is that there is a big difference between crimes like robbery, in which a criminal does harm to a victim who has something done to him that he does not want. It is argued that the second kind of "crime" represents a mistaken attempt to "legislate morality" and too great a demand on the capabilities of the government. While there is a very wide range of "victimless crimes" more or less the same arguments are used about all and there is a growing movement to eliminate them, so it is useful to examine the over-all argument as well as specific applications.

In the first place it is useful to divide victimless crime into two major types. The first type includes purely personal, non-commercial activities such as sexual practices between consenting adults and private gambling in the home or among friends. In New York State many of the laws against these kinds of activities have already been eliminated and by and large this issue is quiescent. (Except to the extent that the

abortion controversy is considered an example, but there the question is primarily whether or not there is a "victim," namely, the unborn fetus.)

The other basic class of victimless crime involves the commercial provision of goods and services which it is now illegal to provide. This category includes the sale of marijuana, heroin, and other drugs, prostitution, lending of money at usurious interest rates, illegal commercial gambling such as bookmaking and numbers, illegal pornography, after hours drinking, and various lesser examples such as stores that violate the ordinances against Sunday openings, illegal disconnection of safety or anti-pollution equipment in automobiles, possession of firearms, etc., etc.

While we cannot begin to analyze adequately all the questions raised by the concept of victimless crime in this report, it is for example the subject of an entire book by Herbert Packer, an eminent professor of law at Stanford University Law School, it may be useful to quickly note a few points.

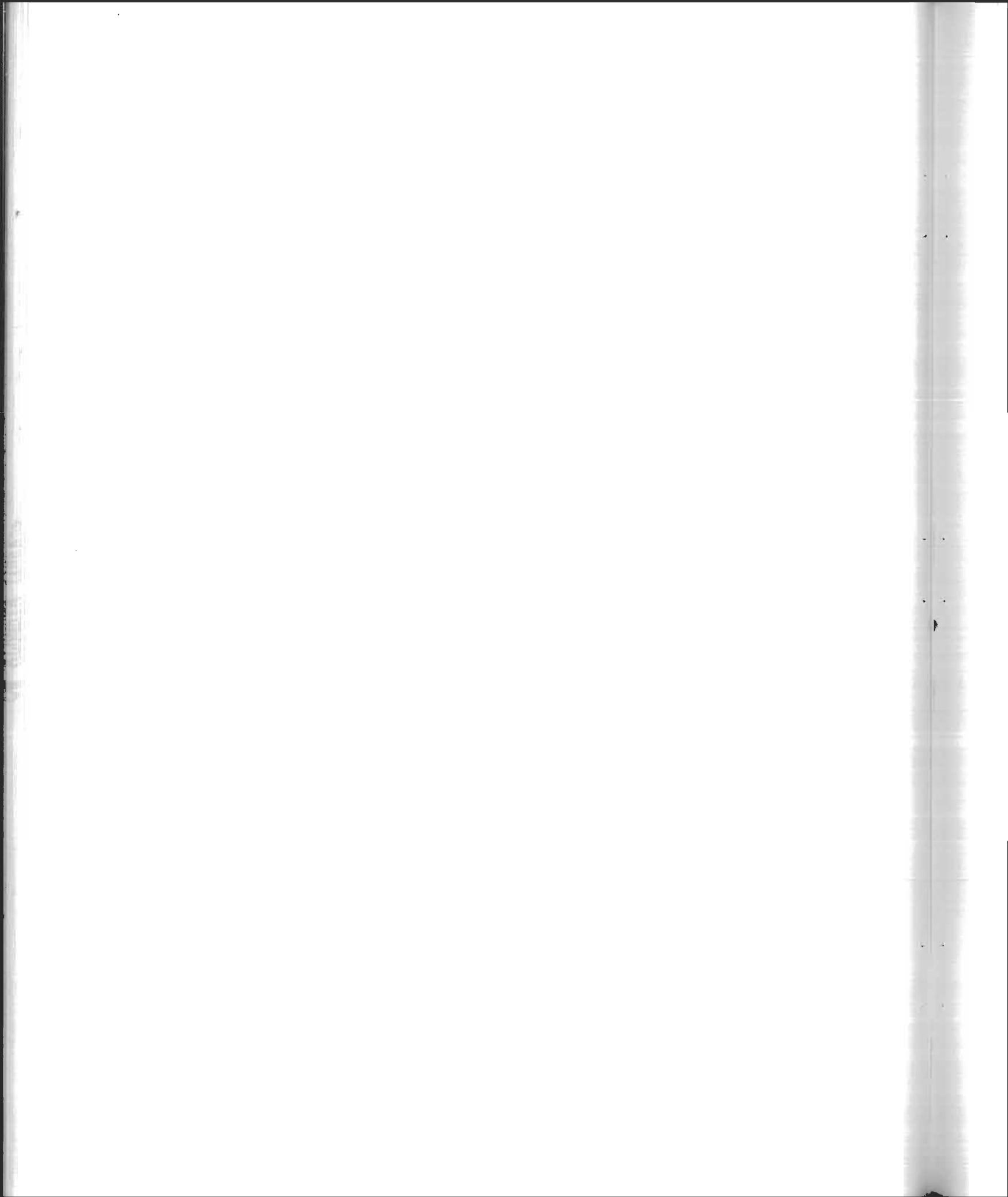
The first point is that some people would argue that even though a victimless crime, such as the sale of heroin, involves a transaction between two people, both of whom are voluntarily engaging in the transaction (which is the reason that there is said to be no "victim") there really is a victim. That is, some would argue that the person who purchases heroin is in many cases not capable of a truly voluntary decision, and thus he is a "victim." This is based upon an approach that such "victimless transactions" should be crimes in order to protect people against themselves. While most people are quite willing to have the State through its criminal laws attempt to protect minors and incompetents

against themselves, many people do not feel it is appropriate for the State to try to protect normal adults against themselves, at least with the criminal law.

Another justification that is sometimes given for preserving victimless crimes argues that in effect the society or the State is the real victim. There are a number of ways in which it is alleged that society is harmed by letting people become drug addicts, gamblers, or prostitutes, even if all or most of the people engage in these activities voluntarily, in some sense. Sometimes the harm to society is specific and voluntary. Drug addicts commit many crimes and are more likely than non-drug addicts to become a welfare burden. Sometimes the argument is more general, such as the one presented elsewhere in this report to the effect that widespread gambling tends to make a society less productivity-oriented.

For most victimless crimes the general shape of the argument is something like the following. Even if the activity (such as selling heroin) is outlawed, a great many people will do it anyway, so making it a crime does not serve to prevent the activity. (Just as making speeding or robbery a crime doesn't prevent speeding or robbery.) If it is a crime, there will be much waste and some injustice in connection with the enforcement of the law because inevitably only a small percent of those committing the crime will be punished. If one is trying to take a practical view, one has to compare the situation if the activity is kept a part of the criminal law, with the situation as it would exist if it were decriminalized. That comparison will depend upon the nature of the activity, the enforcement potential for that particular activity, and its symbolic and sociological significance. It generally should not be true that all crimes for which only

a minority, even a small minority, of those guilty are apprehended and punished should be taken off the books. There is certainly no consensus that merely because a crime involves no complaining victim it should automatically be taken out of the criminal statutes. What can be said is that government ought to recognize the distinction between one victimless crime and another and give serious consideration to whether or not each particular victimless crime is producing a net benefit to society because of being defined as a crime, or whether society might be better off in some cases in de-criminalizing some activities, despite the fact that many or even most people believe that those activities are inappropriate or dangerous.



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Appendix I

ELEMENTS OF APPROACH TO STATE POLICY

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Appendix I

## ELEMENTS OF APPROACH TO STATE POLICY

Since there are three main issues that need to be resolved to create a policy about increased legal gambling, it seemed useful to give a kind of summary of what policies the various possible combinations of conclusions on these issues would lead to. Any such matrix created to show all combinations must be terribly over-simplified if it is to be small enough to be at all useful.

The following matrix allows three possible answers to the question "what is your attitude about gambling in general?" and says you have to be for or against using gambling to fight crime and using gambling to raise revenue. It then shows the policy that results from each combination of these answers.

ELEMENTS OF APPROACH TO STATE POLICY

1-2

<u>GAMBLING</u>	<u>STATE REVENUE</u>	<u>FIGHTING ORGANIZED CRIME</u>	<u>SPECIAL CONSIDERATION</u>
Positive	Important	Important	Sports
Neutral	Not important, or undesirable	Not Important	Casinos
Negative (but not so negative that the State has to forbid or stay away from it despite other considerations)			

<u>APPROACH</u>	<u>POLICY</u>
1. Gambling positive Revenue important Fighting crime important	Big promotion of legal gambling; moderate price* (maybe low when and where there is illegal competition, higher otherwise. After illegal competition is beaten, price will be set to maximize revenue at high volume.)
2. Gambling positive Revenue not important Fighting crime important	Big promotion of legal gambling, low price, promote in competition with illegal gambling.
3. Gambling positive Revenue important Fighting crime not important	Promote for most profit, don't compete with crime for poor business - moderate price (same price policy as #1).
4. Gambling positive Revenue not important Fighting crime not important	Lots of legal gambling, low price. Concept is providing a recreational facility for citizens.
5. Gambling neutral Revenue important Fighting crime important	Big promotion of legal gambling moderate price (may be low at first, higher later). Same as #1 except that where illegal gambling doesn't exist price will be set to maximize revenue at whatever value is most profitable, probably high).

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| 6.  | Gambling neutral<br>Revenue not important<br>Fighting crime important      | Legal gambling only where it takes business away from illegal, low price.  |
| 7.  | Gambling neutral<br>Revenue important<br>Fighting crime not important      | Legal gambling wherever profitable. Don't compete with crime for difficult business. Moderate to high price.                                     |
| 8.  | Gambling neutral<br>Revenue not important<br>Fighting crime not important  | No legal gambling, or at most a little bit where it is easy or serves some other purpose.  |
| 9.  | Gambling negative<br>Revenue important<br>Fighting crime important         | High price gambling where no criminal competition. Low volume--high profit price policy. Low price gambling where there is criminal competition. |
| 10. | Gambling negative<br>Revenue not important<br>Fighting crime important     | Same as number 6 (different in degree).  |
| 11. | Gambling negative<br>Revenue important<br>Fighting crime not important     | Same as number 7 (but higher price).   |
| 12. | Gambling negative<br>Revenue not important<br>Fighting crime not important | No legal gambling.   |

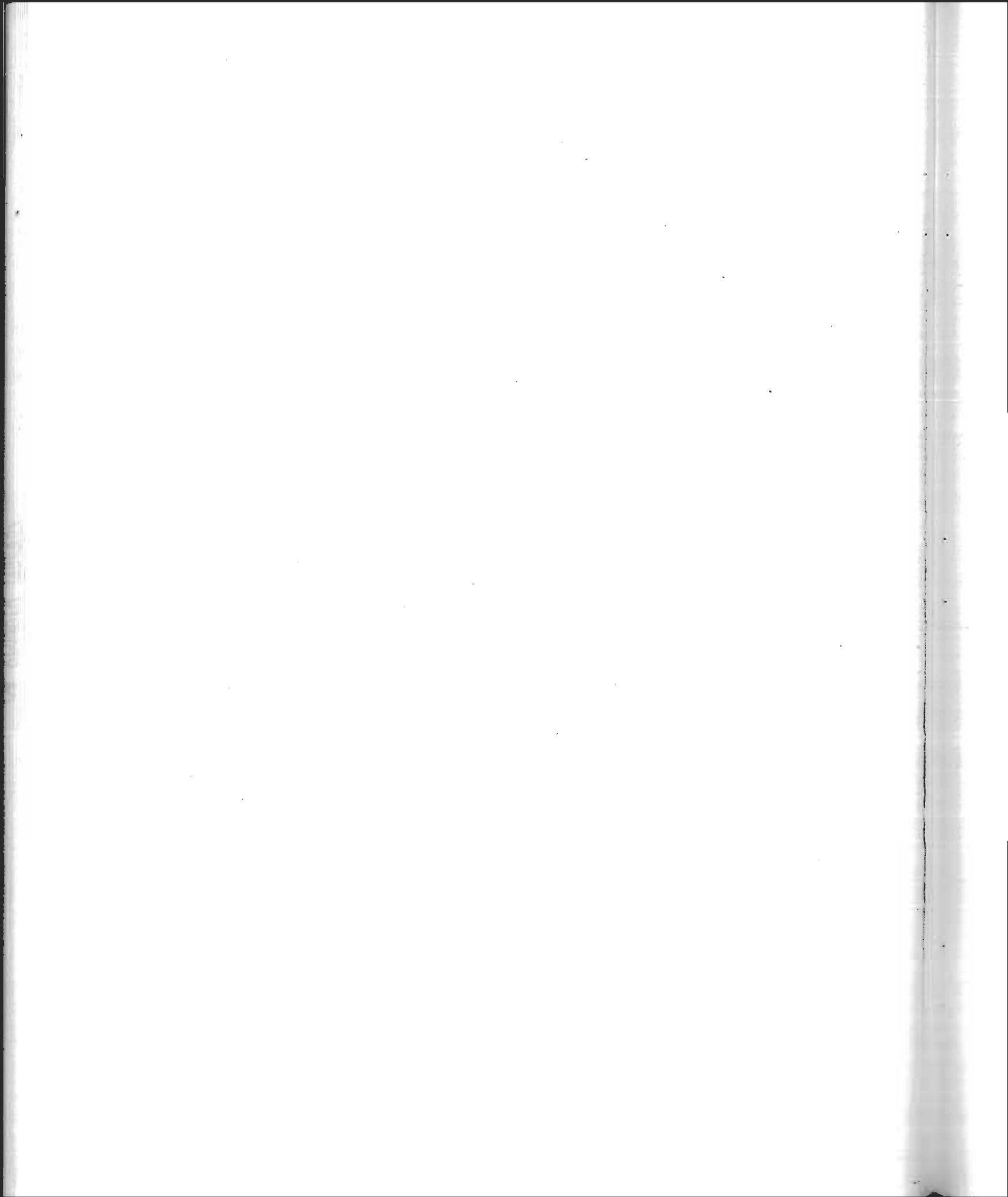
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\*The "price" for gambling is the amount taken by the operator for expenses and profits, the rest goes back to bettors in the form of winnings. A "high price" lottery for example, is one in which the State keeps perhaps 45% of the bets and thus on the average the gamblers lose, say, 55% of all they bet. Big sports bettors with bookies usually "pay" only 5% or so--although they may lose a higher or lower percent of what they gamble depending on how lucky or skillful they are.



Appendix II

LOTTO SYSTEM



Appendix II

## LOTTO SYSTEM

We give this description of the West German Lotto system to illustrate the workings of a large scale computer-based lottery in a modern industrial society. Lotto is in effect a successful, large-scale numbers game (except that it is weekly). It demonstrates what can be done. While the procedures have relevance to New York, the form of play seems rather complicated compared with our familiar and straight-forward numbers system.

The West German numbers lottery, Lotto, is played by the bettor selecting six numbers out of a pool of 49. The premium for one game is 50 pfennig (about 15 cents), and the bettor must play a minimum of two games at a cost of 1 mark (about 30 cents) plus handling charge (at about 3 cents a ticket). The six winning numbers plus one alternate are drawn by a computerized machine every Saturday evening on national television. This program is said to be the most popular in West Germany.

The total amount of money bet on Lotto in the country during the week is pooled for each weekly drawing. Only one-half of the total amount bet during the week is paid out in prizes. The remaining 50% goes to the state for expenses, tax and special expenditures.

There is no tax on the prizes as a handling charge is paid when the game is played and a substantial part of the 50% of the gross handle retained by the state goes to federal tax. There are five classes of prizes. About one-eighth of the total bet goes to the first and second class prizes, and one-eighth to each of the other three.

WEST GERMAN LOTTO

<u>PRIZE CLASS</u>	<u>REQUIREMENTS</u>	<u>PERCENTAGE OF POOL (TOTAL OF 50%)</u>	<u>APPROXIMATE PRIZE DM</u>	<u>APPROXIMATE PRIZE \$</u>	<u>MATHEMATICAL CHANCES</u>	<u>TYPICAL NUMBER OF WINNERS</u>
I	Pick all 6 numbers	6 $\frac{1}{4}$	500,000.	(156,000)	1:14,000,000	6
II	Pick 5 of the numbers plus the alternate	6 $\frac{1}{4}$	62,000	( 19,400)	1:2,300,000	18
III	Pick 5 of the numbers	12 $\frac{1}{2}$	3,500.	( 1,085)	1:55,000	690
IV	Pick 4 of the numbers	12 $\frac{1}{2}$	65.	( 20)	1:1,000	5,700
V	Pick 3 of the numbers	12 $\frac{1}{2}$	3.50 (	1)	1:57	1.2 Million

The prize for Class I is set at a high of 500,000 DM (\$156,000); the other classes vary. The figures for the prizes of Classes II-V given in the table above are approximate average figures. They can, at times, vary substantially. In a recent year, for example, the cash prizes varied as follows:

CLASS	1964			
	HIGH	(DM)	LOW	(DM)
I	500,000.	(\$156,000)	44,400.	(\$14,700)
II	500,000.	(\$156,000)	8,000.	(\$ 2,500)
III	10,000.	(\$ 3,200)	1,300.	(\$ 400)
IV	117.	(\$ 36)	37.	(\$ 11)
V	5.20	(\$ 1.6)	2.40	(\$ .75)

If a bettor were playing a simple game, he would simply put 6 crosses on 6 numbers out of 49 on 2 betting slips (at 50 pfennig each, for a total of 1 DM) and turn it in to the Lotto agent. However, many bettors play different combinations of numbers for any one game in the belief that their chances of winning would be that much greater. Of course, the greater the number of combinations, the higher the cost of the bet. For example, if a player wanted to select 8 numbers he could get 28 combinations of 6 numbers out of a selection of 8 numbers at a cost of 14 DM (\$4.34).

Lotto forms enable the bettor to play these combinations without filling in separate slips for each combination of numbers. It saves the bettor a tremendous amount of time and effort and gives him a degree of accuracy in choosing the combinations that would never be possible doing it himself by hand (the player would, for example, have to put 6 crosses on 210 individual slips in all correct combinations for a total of 1,260

crosses if he were choosing 10 numbers). These forms are called "system" forms and the combinations of numbers are worked out by computer.

Some players get together in groups and pool their betting money so as to be able to play more combinations in the belief that their chances are much greater than if they individually played 6 numbers from week to week.

There is also a Lotto form on which the bettor can play a single-week play for 5 consecutive weeks in advance, saving him the necessity of going back to place a bet each week. The 5-week-form costs 5 times the single-week play, that is, 5.DM plus the handling charge.

Lotto betting slips are sold by licensed agents in special betting parlors, stationery stores, newspaper stands, tobacco shops, travel agents and other small shops. In Bavaria they are even sold in beauty parlors. Apparently, the heavy density of the net of agents has been the backbone of Lotto. In 1967, there were approximately 18,000 places where one could place Lotto bets in West Germany. (On a per capita basis this would be the equivalent of 6,000 outlets in New York State less than half the number now selling lottery tickets.

The Lotto tickets are kept by the selling agents in numerical order. They are picked up by distributors on Friday night and processed (in most cases by machine) before the winning number is picked.

The cost of the system includes 7% commission plus 3¢ a ticket, to the selling agent, 1% for the services of the distribution company, and 3% to 4% taken out of the pool for expenses by the state.

According to some recent figures, there are over 100 million individual plays per week, on about 10 million tickets producing an annual volume of about \$800,000,000.

Lotto is administered by autonomous organizations in each Land, or state, within West Germany. Although these organizations are legally independent of each other, they are connected by a so-called "Block Agreement," which, in particular, sets forth the pooling together of all the money wagered in the entire country. There is no federal office for Lotto. Although each state has separate laws determining how Lotto is to be administered within the state, there is a basic similarity among the states. The Institute for the Northwest Lotto-Toto in Muenster, Westphalia, carries material which has served as the basis for betting systems throughout the world.



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Appendix III

PUBLIC GAMBLING AND LONG-TERM SOCIAL CHANGE

By  
Raymond D. Gastil

Project Leaders' Preface to Appendix III

This Appendix is included on the following chain of thought. Many wise people believe that increased gambling is bad for society. It is entirely possible that they could be right for reasons that are too complicated to understand. If so, there would be no clearly acceptable argument that they could present that would be an adequate, logical basis for rejecting an increase in gambling. There are a number of arguments that have been made to the effect that increased gambling should be rejected because it would be bad for society. We have not found any one of them very convincing, but since we think the conclusion should be given careful consideration, an example of such an argument is given in this Appendix.

Appendix III

## PUBLIC GAMBLING AND LONG TERM SOCIAL CHANGE

There has been a great deal of discussion of the probable gains and losses from legalizing public gambling. While the arguments for legalizing gambling of certain kinds have been well developed in the body of this report, the arguments against gambling have been too often dismissed as "moral." Assuming that gambling will increase as a result of legalization, it has been mentioned that the poor will as a group lose additional money that will further depress their living standard, and more individuals in the working and middle classes will become compulsive, destructive gamblers than is true today. These are important concerns, but more critical are the probable effects on society above and beyond the impact on particular highly affected individuals and the aspect of regressive "taxation" entailed by some proposals. To make the argument that legalizing public gambling is likely to have a negative long-term effect on society is both a complex and difficult task in view of the present state of social science. Yet it is an argument that should be made.

In a recent monograph Otto Newman has presented the case for gambling as a social activity.\* Although Newman attempts to show that gambling among some classes in England is largely an innocent diversion, and that it is deviant in these groups not to gamble, his material is rich enough to make possible on the basis of the same evidence a quite different interpretation. The interpretation that comes to mind makes use of two concepts developed by Max Weber: "The protestant ethic" and the "ideal type." Using the first, Weber demonstrated the association of the new

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\*Otto Newman, Gambling: Hazard and Reward, The Athlone Press, University of London, 1972.

and more intense belief systems of the Reformation with economic rationality and the rapid development of Northern Europe and America. Certain types of personality or groups of behavior patterns were characteristic of the Protestant movement. Describing these was to describe an "ideal type" or model of the Protestant man that never fit any particular person but generally fit most Protestants relatively better than it fit most Catholics at the time of rapid development after the fifteenth century.

Adapting these concepts to our use it is possible while incorporating Newman's data to raise questions that go beyond the relatively obvious usefulness of gambling as a means of relating people to a gambling oriented milieu. We want to know what effect changes in gambling behavior might have on longer term trends in the evolution of a society. To do this, let us distinguish between two ideal social types: production-oriented persons and consumption-oriented persons. By "production" we mean almost anything from a crop of corn to a symphony to a clean floor. The production-oriented are often identified with the middle class and the consumption-oriented with either the lower or upper classes. Although both types occur in all socio-economic classes, there are well known class frequency variations of these types. The production-oriented person lives in time, projects into the future, works hard and saves. To the limit of his ability he utilizes rationality and the lessons of experience in guiding his actions. He is moralistic, and lives in part for abstractions (though these may be as seemingly materialistic as work and money). The consumption-oriented person is present oriented. His primary interests are current enjoyment and the condition of others around him. Although he may live a

solid life of steady effort and work to enjoy the happiness of wife and children and friends, he is not ambitious for himself or his family in the same way as the production-oriented type. Work consists of "jobs" and its purpose is income and social contact. Persons of this type believe they have little control over their lives.\*

Neither type understands the other well, yet the consumption-oriented may respect the accomplishments of the other, though feeling they were attained at too great a cost. The production-oriented often simply condemns his opposite type on both practical and moral (ideological) grounds, although perhaps not without some secret envy. Both types have what might be called an active and a passive variant, and individuals may move from one to another variant as they pass through life, or experiences and opportunities or inner personality variables may cause them to alternate between the active and passive variants. The passive, production-oriented person is in his own eyes a failure. Often he is restricted largely to hopes for his children, and he may be excessively moralistic and censorious, for only his moral standards separate him from the consumption-oriented mass. The active consumption-oriented generally "fails" for other reasons. For his activity in pursuit of higher levels of immediate gratification is not accompanied by the commitment to work and planning required for success in most societies. Looking for the short-cuts, the consumption-oriented activist is apt to take high-risk approaches to success that lead frequently

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\*For an interesting juxtaposition of the societies produced by these two types that is quite different from that implied by Newman see Edward Banfield's comparison of production-oriented rural Utah to a consumption-oriented Southern Italian village in his The Moral Basis of a Backward Society (1958).

to financial ruin or jail. Seen another way, the passive production-type and the active consumption variants represent men caught in between, seeking another way of life, yet unable emotionally or intellectually to attain it.

If we consider gambling in these terms, the bulk of every day gambling is by the passive consumption oriented. People of this type treat gambling as a simple recreation, a substitute for drinking or fishing. While they may lose a considerable amount of money over a long period of time, the amount is often of the same order as that spent for alcohol, cigarettes or other more destructive recreations. As Newman points out, for these people gambling is a means of increasing the amount of social interaction, and it provides an arena in which small victories over life can be regularly won. Although the cards are stacked against the gambler he can frequently appear to himself and his friends as a winner because of his ability to disregard and ignore losses, even to himself. To some extent his is a dream world, but at least no more so than that of television or drunkenness, and to some extent gambling is a replacement for these alternative escapes.

A second kind of gambler adopts the more active consumption orientation either permanently or spasmodically. He wants more out of life and wants it intensely, and gambling is one way to satisfy his hopes. Not being ordered and rational, not being able to persist in the longer term strategies that would be most likely to bring success, the lure of instant success entices this gambler again and again. It is in this group that we find the small number of compulsive gamblers, those who ruin themselves and their families, or else give up all other interests for gambling. This type is not so different from a large section of the criminal and fringe population

that may do little gambling. Like the gambler the criminal is always searching for a "sure bet." This is an additional reason to those advanced elsewhere why much of gambling, legal or illegal, is associated with non-gambling criminal activities.

Few of those who regularly gamble will be production-oriented, although where gambling is legal or accepted by a particular production-oriented subculture, some people of this type will engage in gambling as an entrepreneur--e.g., as a club owner. In general the production-oriented will have much contempt for gamblers, for they see little point in participation in activity that is not self-improving either financially or culturally, that takes up time that could be more "profitably" spent. They also are uncomfortable in the presence of, or with the existence of, any activity with which criminal elements or social deviants of other kinds have often been associated. Both gambling and crime elicit secret fears of slipping, of losing faith in a way of life for which they have sacrificed so much. For people related to one or another ideal type can and do change, and the life of the production-oriented is to a great extent in struggle against change in orientation--for himself or his family.

Although the typology and its relation to gambling is not provable, there is a good deal of evidence from the literature of gambling on the one hand and of historical change and cultural comparison on the other. However, in this case it was Newman's descriptive material that suggested the identifications. Most of the people in the groups he described and his "gambling profiles" are descriptions of consumption-oriented persons, with a few of the more involved of the action variant. One partial exception

cited by Newman is a male nurse who seems dedicated to his work beyond the level of the consumption orientation. He gambles because it is the expectation of his fellows and to fill in the time in an aging bachelor's life. Newman's professional gambler who makes a stable living through exploiting only legal opportunities that call for more than luck is remarkable for his condemnation of gambling because of what it does to most people and its irrationality. Because of the emphasis of Newman's study on working class areas and gambling shops, his non-gambling examples are of relatively poor and passive persons, but at the same time of persons devoted to their children's advancement, cleanliness, the accumulation of property and the moralistic condemnation of others. Most interesting is Newman's "detached young" working class group of non-gamblers. Although they possess little education and the usual working class materialism, men in this group reject the traditional working class day-to-day orientation. They are home centered, treat their wives more equally than is common to their class, work harder and longer hours, and save for the future. To them gambling is an irrational, illusory activity that merely sops up money and time.

The historical record suggests that societies have differed in the degree to which their population and their leading elements were production or consumption oriented. It suggests that the rise and fall of societies can be seen as the result of changing balances among these two types. Some social theorists believe that if a people and especially its elite begin to spend more of their time in consumption activities, including gambling, the society is apt to be declining in the contribution that it is making to civilization, although the standard of living in that society may continue

to rise because of the momentum of previous development. The proposal of relaxation of law in a number of areas such as gambling probably indicates in itself a change of our society in the consumption direction. As this process of change evolves, a society could come into existence that is less creative and productive than previous eras or other societies.

If gambling, or pressures to legalize gambling, are only indicators of social change, then there is no long range social purpose to be served by regulating gambling. However, if the amount or kind of gambling can be altered by regulation and if changes in the kind or quantity of gambling affects the balance of production and consumption oriented social types, then there are long term consequences to changes in gambling regulation. It has been plausibly argued elsewhere in this study that in New York there would be a considerable increase of certain kinds of gambling in the State with freer regulations--especially with legalizing numbers and casino gambling with favorable odds. Today there is almost no casino gambling in the state and there are communities in the state with little or no betting on numbers.

However, the argument that increased gambling will shift the balance of consumption and production-oriented social types in the consumption direction is harder to make. Association is not causation. Certainly the overwhelming number of people approximating either ideal type will initially be unaffected by this change, and negative change only is likely to occur at the margins of the production type group and among those social personalities not yet sufficiently developed to be placed on the production-consumption continuum.

We will be able to understand how change in gambling regulation might have long term consequences if we consider the reasons why certain societies develop or do not develop a preponderance of production-oriented persons. It is probable that growth or decline in faith in the power and significance of man and in man's ability individually and collectively to achieve positive change in life has been decisive. The process of growth in the percentage of production-oriented is fostered by success in bringing about change, and once underway tends to become a "self-fulfilling prophecy." For the man who believes he can do something is more likely to do it. Moreover, once formed, persons brought up in a society of people with such faith are more likely to have the same faith, and to misunderstand those who act differently from them because they do not. Such a productive tradition may die out very slowly; in the United States the New England tradition of care, hard work and constraint is still distinctive from both old England and the rest of the nation, almost three hundred years after the beginning of the breakup of the original sense of community distinctiveness. However, the tradition has surely been diluted, the more so, the more the descendents of the original settlers have been brought into contact with those with other standards and values. No longer is the home and the church and the homogeneous community the primary source of experience and value-reinforcement for many Americans. The television set, the metropolitan school, the experiences of the street and the job are often as important. These experiences provide both alternative life models and exposure to the alternative forms of behavior that are appropriate to these models.

Two of the most production-oriented groups in the United States today are the Jews and the Mormons. Both have high educational standards, strong family values and emphasize work and communal self help. Both were historically founded on strong faith. It is significant that both were able to achieve their form through a high degree of segregation--one geographical in the Utah desert and the other in the ghettos of Europe. More cosmopolitan peoples are continually besieged with other values and alternative behavior patterns from which they were not socially blocked. Therefore, as peoples they have not been able to provide even reasonably uniform contexts for succeeding generations. It is significant that a large percentage of those involved in gambling in the United States and Great Britain are of Jewish background. Newman's discussion would suggest that insofar as these are not entrepreneurs, they are persons who have been unable to transfer successfully from the ideals that constrained the Jewish production-oriented community to those of the larger non-Jewish production-oriented community. Suffering from what a Swedish sociologist has called the "status-frustration" of gamblers, these individuals have accepted an active, consumption-oriented life pattern that has attracted them through its superficial similarity to other aspects of their Jewish culture.

The strength of the reinforcing, self-fulfilling prophecy of the production oriented is always in danger. First, man only controls his life very imperfectly, and faith must be strong to make up for much of the reality of defeat and failure, of pain and death. Especially when the gaps between faith and reality have been made more obvious by the intervention of failure, a society is more likely to be willing to change.

A good example is the rapid change in the beliefs of Germans and Japanese after defeat in World War II. These changes were not on as fundamental a level as we are considering here, but they are analogous to what we imagine might happen over a period of time. The change in Japan and Germany was also fostered by the availability at the time of defeat of an alternative model that could fill up the gap left by a lost faith. Such changes also occur in individual lives, and over time to enough individuals in a particular era and place to change the nature of the society.

Certainly greater contact with a new social pattern such as public gambling can have either positive or negative, or neutral influences on the selection or maintenance of production orientation by particular individuals in a society. For example, individuals may be jarred by the alcoholism or addictive gambling of their consumption-oriented parents or friends into choosing a different orientation. However, the continuity of subcultural traditions that guide the behavior of individuals in the subgroups of society, and evidence for the recruitment of individuals in each of these traditions primarily from families in the same or related traditions in the previous generation suggest that increased association or exposure to any social trait is apt to increase the tendency of most individuals to accept that trait and eventually the traits associated with the new trait.

We would argue, then, that the greater availability of gambling and its greater "coming into the light" through legalization would increase the information and exposure of the production-oriented portion of the population about the consumption-oriented behavior, life style and values. If for reasons of personal set-back, internal personality inappropriateness

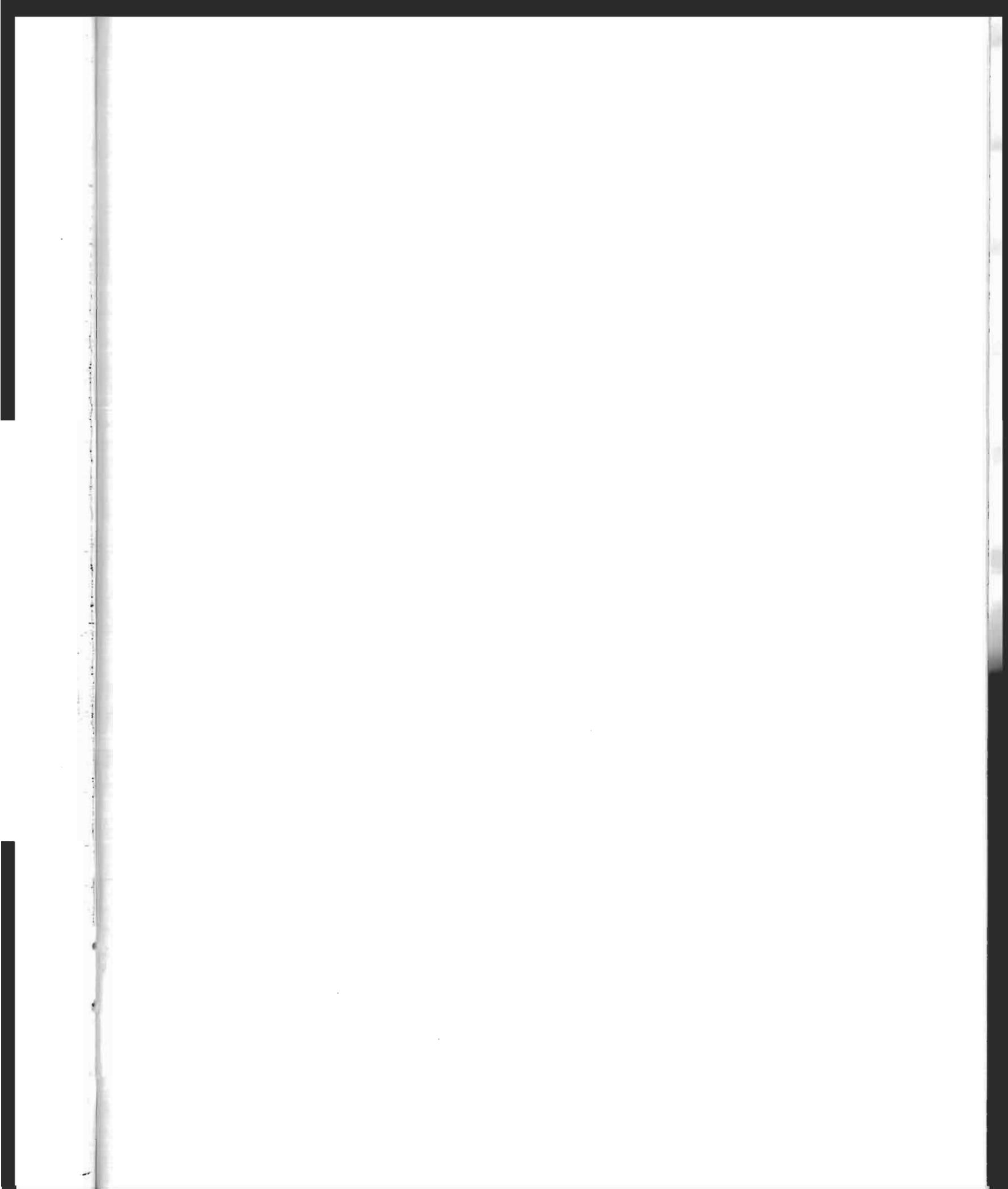
to production or immature lack of rigid adherence to production values, a higher percentage of individuals are drawn into increasing the degree of their exposure than into decreasing it, then the exposure could over several generations change a large enough number to alter the balance of social personality types to create a less production-oriented society. This is particularly likely since there are a number of other pressures in our society in the same direction.

It may be the case that production-oriented persons are "harder to get along with" than consumption oriented. It may also be that the "release" function of gambling will be therapeutic or personality-restoring to otherwise rigid production personalities. But we are not here concerned with increasing the short-term pleasure or adaptation of individuals, but with long-term consequences. We recognize that most changes have gains or losses for someone, or they would never occur. Yet the danger is that only the short-run effects will be significantly taken into account by most analysts of the proposed legalization. Perhaps we want an easier going, more complacent society, but if so, this issue should be addressed by the sponsors of the innovation.

In developing this model, we have, of course ignored a number of alternative models. For example, we could see all individuals in a population as being characterized by a greater or lesser degree of consumption orientation. For most individuals we would then assume that with greater exposure to gambling, they would tend to become involved to some extent in gambling or with gamblers, with a resultant change in the production-orientation of the whole society. Thus the balance of types of individuals we referred to in the basic analysis becomes a balance within individuals. Thus,

England has both production-oriented and consumption-oriented types, but English society as a whole and on all levels is also less production oriented than the Japanese, or many other societies on the continent.

Given the probabilities of social change associated with changes in exposure to gambling the state should have very good counter-arguments before it decides to increase the availability or attractiveness of gambling beyond its present level.





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