IN THE SUPREME COURT
STATE OF FLORIDA

ADVISORY OPINION TO THE ATTORNEY GENERAL RE: CASINO AUTHORIZATION, TAXATION AND REGULATION	)	CASE No. 84,064

On a request by the Attorney General
for an advisory opinion on the validity of an
initiative petition circulated under Art. XI, sec. 3

INITIAL BRIEF OF NO CASINOS, INC., IN OPPOSITION TO THE PROPOSITION FOR COUNTY CHOICE INITIATIVE

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No Casinos, Inc., is a not for profit corporation organized under the laws of the State of Florida, for the purpose of opposing casino gambling. Its members are of a like view that casino gambling is not in the best interests of the State of Florida or its citizens.

SUMMARY OF ARGUMENT

The Court should strictly scrutinize initiative petitions for violations of Article XI, section 3.

The Proposition For County Choice Initiative ("County Choice")(Attached as Exhibit A) violates the single subject rule by incorporating multiple subjects and affecting or performing multiple governmental functions. Among other things, the initiative would authorize casino gambling, regulate casinos, tax casinos, and create a trust in support of its tax provisions--all separate governmental functions. This Court has not previously allowed an initiative to perform the legislative functions of creating and imposing taxes, together with any other function, and it should not do so now.

While the initiative contains a severability clause that appears to have been intended to sever the tax and trust provisions, the severability clause goes well beyond the mere implementation provisions this court has allowed in the past and it should not be given effect.

Even if severance is allowed the initiative still contains multiple subjects, including taxation provisions. The initiative is also misleading. It fails to define and explain key terms and its deceptive qualities would be further compounded by severance.

Besides containing multiple subjects and failing the Court's functionality test, the initiative is a logrolling measure. The initiative attempts to logroll a host of different special

interests with its licensing, taxation and trust fund provisions. It also attempts to logroll voters by attracting a host of different economic and political interests, who would support different kinds of casino initiatives and laws, but who would oppose others. The initiative also has unstated collateral consequences including, the unstated authorization of casino gambling on indian lands.

The County Choice Initiative also fails to meet the requirements of section 101.161, Florida Statutes. The ballot title refers to multiple subjects in a misleading way, and therefore fails to clearly state the chief purpose of the initiative. The ballot summary deviates in important ways from the language of the initiative in order to stay within the 75 word limit of section 101.161, Florida Statutes. In doing so, the summary "recasts" the language of the text in some very misleading ways.

For all of these reasons the County Choice Amendment must be denied a place on the ballot.

I. ARGUMENT

A. THE COUNTY CHOICE INITIATIVE VIOLATES THE SINGLE SUBJECT RULE OF ARTICLE XI, SECTION 3, FLORIDA CONSTITUTION

1. The Court Must Strictly Scrutinize The County Choice Initiative For Single Subject Violations.

Those who seek to amend the constitution by initiative petition must strictly comply with the single subject rule of Article XI, section 3. Fine v. Firestone, 488 So.2d 984, 989 (Fla. 1984).

The initiative petition is the only procedure for amending the Constitution that contains a single subject requirement. When the Constitution is amended by any other means there are extensive opportunities for public hearings and debate before a measure is voted on by the people. Id. at 988. Under the other approaches to constitutional amendment, hearings and debate occur continuously--during both the creation of the amendment proposal, and after the proposal is finalized.

Since there is no opportunity for citizen input in the initiative process, the single subject rule of Article XI, section 3, acts as a substitute form of protection against "precipitous and spasmodic changes in the organic law." Fine, 488 So.2d 984, 993 (Fla. 1984)(quoting Adams v. Gunter, 238 So.2d 824 (Fla. 1984).

The single subject rule was incorporated into the initiative process as a rule of restraint. The Court must strictly apply that rule to avoid rash, ill-conceived changes in our basic law.

2. The County Choice Initiative Incorporates Multiple Subjects And Fails The Court's Functionality Test

The single subject rule of Article XI, section 3, requires that initiatives to amend the constitution "embrace but one subject and matter directly connected therewith." Art. XI, § 3, Fla. Const.

The Court examines ballot initiatives for "oneness of purpose", and applies a "functionality test" to determine whether the single subject standard is met. If a proposed amendment would "change" or "affect" more than one governmental function it fails the functionality test, and violates the single subject rule. Evans v. Firestone, 457 So.2d 1351, 1354 (Fla. 1984). The court has also said that no single proposal can "alter" or "perform" multiple governmental functions without violating the single subject rule. See In re Advisory Opinion To The Attorney General--Save Our Everglades Trust Fund, 19 Fla. L. Weekly S276, S277 (May 26, 1994).

The initiative under consideration would implement several public policy decisions of statewide significance, each of which is a separate function of government. Id. First, the initiative would authorize casino gambling for the first time. The authorization of casino gambling is a single subject and the initiative should say no more; however, the initiative also creates a constitutional-level trust fund.

While the court recently found that creating a constitutional-level "Criminal Justice Trust Fund" did not

violate the single subject rule. It did so in a case in which the trust fund was the only subject of the initiative, and in which only a single governmental function was affected. Advisory Opinion To The Attorney General RE: Funding For Criminal Justice, No. 90-1092 (Fla. July 15, 1994).

In reaching this conclusion the Court explained that "while the initiative creates a trust fund, the funding of the trust and allocation of monies therein remains with the legislature." Id. at 3 (emphasis added). Thus, the amendment did not impose any new tax, except as the legislature might determine in its discretion to be appropriate. See Id.

Unlike the Criminal Justice Trust Fund case, in addition to authorizing casino gambling and creating a trust fund, the County Choice amendment clearly requires the legislature to impose new taxes and fees. Thereby performing a third, and fourth[1], governmental functions.

In Advisory Opinion -- Funding For Criminal Justice the amendment provided for the trust fund corpus to be created from "a tax of up to one percent on the sale of goods and/or services as provided by law." Id. at 2. There are existing taxes which

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[1] The Court's have always distinguished between taxes and fees in terms of the governmental functions they perform. Taxes function solely as revenue raising devices. A tax is a legislative extraction without regard to any benefit to the individual taxpayer. In contrast, "fees" are paid incident to a voluntary act on the part of an applicant who seeks to acquire some individual benefit not shared by others in society. National Cable Television Association, Inc. v. United States, 415 U.S. 336, 340 (1974). Thus, fees function as a means whereby government collects compensation for bestowing a benefit on particular persons.

the legislature could use, in its discretion, to provide for the trust. Alternatively, the legislature could, in its discretion, create a new tax on some goods or services to fund the trust. Therefore, the amendment at issue in Funding For Criminal Justice did not compel the creation of a new tax.

In this case, the amendment states that "[n]et proceeds from the license fees and taxation of casino gambling shall be appropriated to a state trust fund." The amendment uses the mandatory term "shall" to require the legislature to appropriate funds for the proposed trust.[2] It also requires that the appropriated funds come from the "[n]et proceeds derived from the license fees and taxation of casino gaming."

There are currently no taxes or license fees imposed on casino gambling. Thus, the legislature must provide funds, and the source for those funds must be taxes and fees that do not now exist. Ipso facto, the legislature is compelled to impose new taxes and fees, and the County Choice initiative embraces two additional subjects--taxation and licensing fees.[3]

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[2] While the mandatory words "shall be funded . . . up to one percent" appeared in the Criminal Justice Trust Fund amendment, the legislature could choose whether to fuel the trust with funds from existing taxes or create new taxes. Advisory Opinion -- Funding For Criminal Justice, No. 90-1092 at 5. Furthermore, while the taxation language was mandatory it left complete discretion in the legislature to fund the trust in any amount up to one percent. Id. Thus, the legislature could decide to put zero funds in the trust.

[3] It also follows that before the legislature imposes licensing fees, it must create a scheme of licensing. Furthermore, the executive branch must administer that scheme and issue licenses. These are additional legislative and executive branch functions that are affected by the initiative.

There is also no question that the Court has always regarded the taxing power as a legislative function separate from all others. Compare Fine, 448 So.2d 984(treating taxation as a separate function of government where an amendment sought to restrict taxing power), with Floridians Against Casino Gambling v. Lets Help Florida, 363 So.2d 337 (Fla. 1978)(finding allocation of taxes not a separate governmental function, where taxing discretion is left with the legislature).[4] And, the Courts have always regarded "fees", including licensing fees, as distinct from taxes. See, e.g., National Cable Television Association, Inc. v. United States, 415 U.S. 336, 340 (1974).

No Casinos, Inc., is aware of no decision where this court has allowed an amendment on the ballot that both implemented a public policy decision of statewide significance and performed the legislative function of creating new taxes. Allowing that to occur would open the door wide to abusive initiatives intended to create comprehensive legislation through the initiative process.

The Court must not allow that to happen.

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[4] While the Attorney General has invited the Court to reconsider the Floridians decision, Floridians still stands for a few narrow points in the Court's single-subject jurisprudence. No Casinos, Inc., does not believe it is necessary to directly overrule that decision in order to find a violation of the single subject rule in this case. See, e.g., Evans v. Firestone, 457 So.2d 1351, 1357 (Fla. 1984)(Overton J. concurring)(harmonizing Floridians with the Court's other single subject decisions).

3. The Initiative's Severability Clause Is Not Directly Related To The Chief Purpose Of The Initiative, And It Cannot Be Given Effect

Section 2 of the initiative petition in this case states:

> If any subsections of this amendment to the Florida Constitution are held unconstitutional for containing more than one subject, this amendment shall be limited to SECTION 16, subsections (a.), (b.) and (c.).

The Court has allowed some amendments to appear on the ballot that included a severability clause, and appears to have concluded that such provisions may be closely related enough to the main purpose of an initiative to survive single subject review. See e.g., Carroll v. Firestone, 497 So.2d 1204, 1206 (Fla. 1986). It appears to be the Court's policy to examine this issue on a case by case basis. Indeed, in the landmark Fine decision, the Court refused to give effect to a severability clause that could have saved the initiative. Fine, 448 So.2d 984, 992. However, No Casinos, Inc., has found no case in which a constitutionally defective provision was actually severed by the Court before an amendment appeared on the ballot.

No Casinos, Inc., submits that severance would be essential to the survival of the initiative in this case, and even then the remaining portion of the ballot would violate the single subject rule. Furthermore, this case is easily distinguished from Carroll, and cases like Carroll do not reflect the full maturity of this court's approach to single subject analysis.

In examining initiatives for single subject violations, the Court's more recent decisions focus on (1) the functionality test, (2) an examination of the initiative for signs of

logrolling, and (3) the always fundamental question of whether the initiative would mislead voters. Compare, Advisory Opinion--Save Our Everglades, 19 Fla. L. Weekly S276 (examining initiative for affect on governmental functions, logrolling, and deceptive language), with, Carroll, 497 So.2d 1204 (no mention of the functionality test, and no examination for logrolling or deceptive language).

Furthermore, in Carroll, the initiative made a simple straight-forward educational lottery proposal, in which a subsection noted that the lottery proceeds (not taxes or fees) would go into a trust for education. Carroll, 497 So.2d 1204, 1205. Indeed, the provisions were closely related enough that severance was not necessary.[5] Both the trust and the severance clause were obviously included to aid in implementing the main purpose of the initiative.

Since Carroll, other amendments have incorporated similar provisions merely to aid in the implementation of the main purpose of an initiative, and they have gone largely unnoticed in the Court's opinions--probably because they have not been contested. See, e.g., Advisory Opinion To The Attorney General--Limited Marine Net Fishing, 620 So.2d 997 (Fla. 1993)(including severability clause). No Casinos does not intend to suggest that

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[5] In Carroll the trust did not involve the taxing function. Since the lottery was to be operated by the government, a government trust seems an appropriate vehicle to receive profits. In this case the purpose of the trust is to support the taxing function by receiving and allocating tax revenues. The trust serves the taxing function, not authorization of casinos, and this initiative must fail.

severance clauses should never be allowed. However, the Court should not allow severance clauses to serve purposes that go beyond passive implementation.

The amendment in Carroll is distant from the ones that the Court would be required to sever in this case. Its severance clause and trust provisions go well beyond mere passive implementation. Voters who support taxes, licensing fees, law enforcement, new prisons, education, senior citizen programs, and tourism, have all been attracted to support this initiative by the contents of subsection (d.). The initiative proponents have been using this smorgasbord of promises to diverse special interests to collect signatures for their amendment. If the initiative is allowed on the ballot without subsection (d.), then it will have flown there under false colors. See Askew v. Firestone, 421 So.2d 151, 155 (Fla. 1984).

The initiative proponents do not care whether the taxation, licensing, and trust fund provisions survive single subject review or not--as demonstrated by their inclusion of a severability clause directed solely at subsection (d.).[6] Indeed, the inclusion of mandatory tax, fee, and trust provisions would be inimical to the proponents best economic interests.

Unlike the severability clause in Carroll, the purpose of the clause in this case is not directly related to the chief purpose of the initiative. To allow severance in this case,

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[6] While subsection (d.) is the clear target of the severability clause, a literal reading of its terms would require severance of the ballot title and summary as well.

would be to allow the perpetration of a fraud on those voters who signed petitions. The purpose of the severability provision in this case is to serve as the vehicle that carries the initiative to that fraudulent end.

Severing subsection (d.). would issue an open invitation to future initiative proponents that the way to acquire enough signatures for the ballot, and survive single subject review, is to load a section of the initiative with false promises to special interests. So long as the drafters include a severability clause, the real purpose of the initiative will be saved -- and the single subject rule can be safely ignored.

Initiative proponents should not be allowed to collect signatures on an initiative with the obvious intention of obtaining space on the ballot for an entirely different amendment. That is the essence of what this severability provision would accomplish.

4. Even If Subsection (d.) Is Severed, The Initiative Cannot Survive Single Subject Review, In Part, Because Severance Would Make The Initiative Misleading

Subsection (d.), which is targeted by the severability provision for removal from the amendment[7] states that "Net proceeds derived from the license fees and taxation of casino gaming shall be appropriated to a state trust fund." It goes on

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[7] Read literally, the severability clause would leave only subsections 16(a.), 16(b.) and 16(c.). Thus, the amendment would have no ballot summary or title, and the severability provision itself would not appear on the ballot. This last point alone is enough to prevent the severability clause from being effective. Fine, 448 So.2d 984, 992.

to say that the trust fund shall be used for "crime prevention and correctional facility construction, education, senior citizen services and state tourism promotion."

In this case it is clear that there is no way the initiative can survive with subsection (d.) intact. Thus, the question arises: If the Court severs subsection (d.), can the initiative survive single subject review. The answer still is no.

The initiative is defective not because it includes subsection (d.) but because that subsection, and others, include multiple subjects and affect multiple governmental functions--some of which happen to be reflected in subsection (d.). However, Subsection 16 (a.) of the amendment text states in pertinent part that:

> Casino gaming is prohibited ... except in those counties or established Local Option Tourist Development Council Districts . . . only in state . . . taxed, privately owned gaming facilities.[8]

If the Court severs subsection (d.), the amendment still will authorize casino gambling in specified locations, but only if those facilities are taxed by the state. Thus, the amendment still performs the legislative function of imposing a tax, in addition to its chief purpose.

Furthermore, even if the Court somehow concluded that after subsection (d.) is severed the amendment does not impose a tax, the initiative still must fail. The initiative proponents have

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[8] The ballot summary also "requires net license and tax proceeds to be appropriated." Thus, the summary contemplates both a mandatory tax and an appropriation.

collected signatures on a petition which states in its title that one of its purposes is "[t]axation." If no tax is imposed then the title is obviously misleading. Similarly, after severance, the initiative summary would still refer to mandatory taxes and appropriations that could no longer be given effect.

As a practical matter the court would have two choices: (1) order that subsection (d.) be removed from the ballot, in which case voters would still be misled by the title and summary;[9] or, (2) order the initiative on the ballot with subsection (d.) intact under the assumption that voters will be put on notice that it is not operative by virtue of this court's decision. Neither of these approaches provides a reasonable cure for the defects in the initiative. "[T]he proposal must be neither less nor more than it appears to be." Askew, 421 So.2d 151, 155.

5. Without Regard To Subsection (d.), The Remainder Of The Amendment Contains Multiple Subjects And Performs Multiple Governmental Functions

The single subject rule of Article XI, section 3, requires that initiatives to amend the constitution "embrace but one subject and matter directly connected therewith." Art. XI, § 3, Fla. Const.

The County Choice amendment embraces multiple subjects, and performs multiple governmental functions. If the court allows this initiative to take a place on the ballot, voters will be

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[9] While the severability clause seems to require severance of the title and summary as well, an amendment must appear with both in order to satisfy section 101.161, Florida Statutes.

asked to make a multitude of decisions. Within a single amendment, voters must consider whether casino gambling should be authorized; whether casino gambling should be authorized on riverboats, within pari-mutual facilities, or on commercial vessels; whether particular games should be allowed; whether counties and certain taxing districts should control referendums on these questions; whether casinos should be taxed; whether casinos should be licensed and whether casinos should be regulated.

The determination of whether casinos should be authorized is a legislative function. While the legislature could also determine the locations of casinos (at pari-mutuel facilities, on riverboats and commercial vessels etc.), it might reasonably leave that function to the executive branch. The imposition and allocation of taxes, and the creation of licensing requirements are additional legislative functions. The collection of taxes and fees are executive branch functions. The imposition of fees could be accomplished by the legislature or by the executive branch agency responsible for licensing and regulation. Regulation is obviously an executive branch function. Finally, while the legislature can create a trust, the trust in this case is created at a constitutional level. The Court should consider that this trust could only be created by constitutional amendment, and its creation should therefore be considered a separate function of government.

Where an initiative affects functions of different branches of government it fails the court's functionality test. Advisory Opinion--Save Our Everglades, 19 Fla. L. Weekly S276, S277.

It should be clear that there is hardly a governmental function not performed, or at least affected, by this initiative. While it is true that an amendment may contain matters directly connected to its main purpose, the material connected must be "necessary to the main purpose of the amendment." Floridians Against Casino Gambling v. Lets Help Florida, 363 So.2d 337 (Fla. 1978)(emphasis added). If one seeks to authorize casino gambling, it is not necessary to include mandatory regulation, taxation, and appropriation, riverboats, parimutuel facilities or any of the other peripheral matters in this initiative. Nor, is it necessary to perform and affect multiple governmental functions as is the case here.

6. The County Choice Initiative Is A Logrolling Measure

A major purpose of the single subject rule in Article XI, section 3, is to prevent logrolling. Advisory Opinion--Save Our Everglades, 19 Fla. L. Weekly S276, S277 (May 26, 1994). Logrolling is "a practice wherein several separate issues are rolled into a single initiative in order to aggregate votes or secure approval of an otherwise unpopular issue." Id. This initiative brings together a host of separate issues in an attempt to aggregate votes from every conceivable direction.

First, the initiative seeks to consolidate many different and opposing casino interests in support of the petition. It

therefore contains a wide range of different circumstances under which casinos could be authorized, developed and operated, all joined together in a single initiative for the purpose of satisfying a host of different political and financial interests.

Because it tries to satisfy so many different constituencies, the initiative requires voters who may support one or more of its provisions to vote for provisions they may oppose. "When voters are asked to consider a modification to the constitution, they should not be forced to 'accept part of an initiative proposal which they oppose in order to obtain a change in the constitution which they support.'" In re: Advisory Opinion To The Attorney General--Restricts Laws Relating To Discrimination, 632 So.2d 1018, 1019-1020 (Fla. 1994)(quoting Fine, 448 So.2d 984, 988).

For Example, riverboat casinos have been included in the initiative to satisfy political and financial interests that support riverboat casinos. Political interests that desire casinos in certain counties or certain other voting districts are satisfied by provisions that provide for voting on casinos in those areas. Pari-mutuel wagering interests, which have suffered financially from the creation of a lottery and who would otherwise fear financial losses if casinos are approved, are given the right to open casinos at their facilities.

There is only one logical reason for proposing an initiative that would allow casinos in all of these different places under so many different circumstances--to obtain the support of persons

who have a financial interest in opening casinos in those locations, while simultaneously eliminating their potential opposition to any initiative that did not include their interests. "No person should be required to vote for something repugnant . . . nor should any interest group be given the power to 'sweeten the pot' by obscuring a divisive issue behind separate matters about which there is widespread agreement" In re: Advisory Opinion To The Attorney General--Limited Political Terms In Certain Elective Offices, 592 So.2d 225, 232 (Fla. 1991)(Kogan J. Concurring in part, dissenting in part).

The initiative also engages in logrolling by attempting to attract diverse and possibly opposing voters through a multifarious taxing scheme.

Instead of allocating revenues from the primary subject of the amendment to just one or even two areas of spending, the amendment would impose taxes, and require mandatory appropriations to a trust fund that would go to crime prevention, construction of correctional facilities, education, senior citizens' services, and state tourism promotion. So many diverse interests have never been successfully brought together under the roof of one amendment. Voters who would like to see any one of these subjects benefit from new tax revenues would be compelled to vote for all of the proposed beneficiaries, and a host of other unrelated provisions. This forced acceptance of diverse and opposing interests violates the single subject rule. Advisory Opinion--Restricts Laws Relating To Discrimination, 632

So.2d 1018, 1019-1020 (Fla. 1994)

In a recent case the Court noted that "[t]he voter is essentially being asked to give one 'yes' or 'no' answer to a proposal that actually asks ten questions. Id. at 1020. As in that case, voters here are asked to "cast an all or nothing vote" on multiple subjects in violation of the single subject rule.

7. The Initiative Performs Legislative And Executive Functions By Authorizing And Compelling Negotiations For Casinos On Indian Lands.

If the County Choice initiative becomes law, the State of Florida would be compelled under the Federal Indian Gambling Regulatory Act to negotiate for, and ultimately authorize casino gambling on indian lands. Under that Act, "all State laws pertaining to the licensing, regulation, or prohibition of gambling . . . apply in indian territory to the same extent as such laws apply elsewhere in the State." 18 U.S.C. § 1166(a).

Gambling under the Act is defined to include Class III gaming, which includes casino gambling. Lac du Flambeau Band Of Lake Superior Chippewa Indians v. Wisconsin, 770 F.Supp. 480, 482 (W.D. Wis. 1991).

If a tribe adopts an ordinance or resolution authorizing casinos in accordance with the Act, then the State must negotiate to enter an agreement that will allow such gaming on indian lands, if the State allows casino gambling for any other purpose by any person, organization, or entity. See id. (citing 25 U.S.C. § 2710).

Because Florida prohibits casino gambling elsewhere in the

State, it can continue to prohibit casino gambling on the indian lands. However, if the County Choice Amendment becomes law it would allow casino gambling at locations other than on indian lands, and the State would be required to negotiate to allow casino gambling on indian lands. Chippewa Indians v. Wisconsin, 770 F.Supp. 480.

The "purpose of the single subject requirement is to allow the citizens to vote on singular changes in our government that are identified in the proposal" Fine, 448 So.2d 984, 993(emphasis added). The Limited-Access Casinos amendment would perform an additional governmental function not mentioned in the proposed amendment--determining that casino gambling will be authorized on indian lands. Such broad unstated collateral side-effects clearly violate the single subject rule. Advisory Opinion--Restricts Laws Relating To Discrimination, 632 So.2d 1018, 1021 (finding single subject violation because both the summary and the text of the amendment omitted any mention of "the myriad of laws, rules, and regulations" affected.); Id at 1022. (Kogan J. concurring)(noting that any initiative that is so broad as to have "an unstated domino effect" on our governmental system violates the single subject rule).

B. THE COUNTY CHOICE INITIATIVE VIOLATES THE BALLOT REQUIREMENTS OF SECTION 101.161(1), FLORIDA STATUTES

1. The Ballot Title For The Initiative Is Clearly And Conclusively Defective.

Section 101.161, Florida Statutes, requires that a ballot title and summary state "in clear and unambiguous language the chief purpose of the measure." Advisory Opinion--Limited Political Terms, 592 So.2d 225, 228 (Fla. 1991), quoting, Askew, 421 So.2d 151, 155 (Fla. 1982).

The ballot title for the proposed amendment in this case is "Casino Authorization, Taxation, And Regulation." The title could not describe three purposes, and three separate governmental functions, more efficiently. Casino authorization, a legislative function, is the first purpose. Taxation, another legislative function, is the second purpose; and regulation, an executive branch function is the third purpose. It is impossible to tell which among the three purposes described in the title is "chief."

"A ballot title and summary should tell the voter the legal effect of the amendment." Evans v. Firestone, 457 So.2d 1351, 1355 (Fla. 1984). However, in this case the ballot is so indefinite in its legal implications that it would not be possible for the title to tell the voter the legal effects of the amendment. Since the amendment contains multiple subjects, including taxation and the creation of a trust, it does not appear that the initiative could ever appear on the ballot in its present form. If the amendment appears on the ballot at all, it

will very likely do so without subsection (d.).

In the absence of subsection (d.), the amendment's taxation provisions take on a new level of ambiguity. Perhaps the initiative should have been titled: "Casino Authorization, Regulation, Maybe Taxation, And Perhaps A Trust." This title would have more accurately conveyed the legal effect of the amendment to voters, see Evans, 457 So.2d 1351, 1355 (requiring clear statement of legal effects), while clearly stating four of the "chief purpose[s]" of the measure--instead of just three. See Askew, 421 So.2d 151, 155 (requiring that title state "the chief purpose" of the measure)(emphasis added).

Where separate provisions of a proposed amendment are an 'aggregation of dissimilar provisions designed to attract the support of diverse groups to assure its passage', the defect is not cured by . . . an over-broad subject title." Evans, 457 So.2d 1351, 1354.

2. The Ballot Summary Is Clearly And Conclusively Defective.

"While the Court is wary of interfering with the public's right to vote on an initiative proposal . . . [it] is equally cautious of approving the validity of a ballot summary that is not clearly understandable." Advisory Opinion--Restricts Laws Relating to Discrimination, 632 So.2d 1018, 1021 (Fla. 1994).

Section 101.161 limits ballot summaries to 75 words or less. This ballot summary contains exactly 75 words. While the drafters managed to stay within the statutory limit on words, they abandoned necessary rules of grammar, punctuation, and

sentence structure, in order to do so. In drafting the summary, the initiative proponents also deviated from the language of the amendment text in important ways.

For example, the first sentence of the summary states in pertinent part that "[t]his Amendment prohibits casinos." This statement is false. The amendment does not prohibit casinos. Furthermore the text of the amendment does not purport to prohibit casinos. The parallel provision in the text says "[c]asino gaming is prohibited in this state." Unlike the summary, this is an accurate statement of current law. A summary must accurately specify what is being changed. Florida League of Cities v. Smith, 607 So.2d 397, 399 (Fla. 1992). This summary fails to satisfy that requirement.

In Askew, 421 So.2d 151, the Court held a ballot summary defective because it claimed to grant citizens greater protection against conflicts of interest in government, without revealing that the amendment actually removed an established constitutional protection. Similarly, in Evans 457 So.2d 1351, the Court held a ballot summary defective because it claimed to inaccurately claimed to "establish" citizens rights in civil actions.

In this case the court is confronted foursquare with the same defect. The summary claims that the amendment prohibits casino gaming, while the text merely notes that casino gaming is already prohibited. The Court has consistently found this kind of "recasting" of language between the summary and the text of an amendment are offensive to the constitution. Id. at 1355.

The text of the amendment goes on to describe the circumstances under which casinos would be authorized. The text would allow Taxing Districts and Counties to authorize casinos only within their own boundaries. In contrast to the amendment text, the summary says without geographic limitation that casinos would be prohibited "unless approved by the voters of any county or Tourist Development Council District." Thus, the summary tells voters that if any County or District votes to approve of casinos, the prohibition against casinos will be lifted on a state-wide basis. A voter should not be misled by the ballot. Askew, 421 So.2d 151, 155.

While somewhat ambiguous, the text of the amendment seems to allow counties and districts to authorize casino gambling at certain pari-mutuel facilities or on riverboats and commercial vessels or at transient lodging establishments, or at any combination of the foregoing establishments.[10] This important ability to pick and choose among the kinds of gambling establishments that will be authorized does not appear in the summary. Indeed, the summary conveys the impression that if a County or District votes to approve gambling, then gambling would

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[10] Subsection (a.) of the amendment text says that "where the electors have authorized . . . casino gambling" it would be permitted "to the extent authorized . . . in . . . gaming facilities." It then goes on to identify the kinds of facilities Counties and Districts could choose to authorize. However, the phrase "to the extent authorized" in the text, would mislead some voters into believing that Counties and Districts could limit the kinds of gambling authorized by only authorizing certain games. That would not be the case. Subsection (b.) would require that certain games be authorized, and would vest the authority to authorize additional games in the legislature.

be approved at all of the kinds of facilities identified.

The summary, like the amendment, mentions riverboats but fails to define that important term of art in such a way as to let voters know what will be authorized.

Finally, the ballot summary explains that the initiative would establish "riverboat casinos", but fails to explain or define what a riverboat casino is. The amendment text refers to stationary and non-stationary riverboats, but to the untrained reader these terms would merely denote whether a riverboat happened to be in motion at a particular time.

The term riverboat casinos is a term of art that encompasses two entirely different types of casinos. Those who have not visited such casinos will be misled into believing that the initiative authorizes casinos only on boats. In reality, "riverboat casinos" that operate in other states are sometimes not really boats at all. They are permanently constructed facilities that lack any ability to navigate on water. "These facilities are more like land based casinos than riverboats." (Appendix B at 11)(explaining that in Mississippi "riverboats with casinos did not have to sail on the river; such facilities did not even have to be boats as long as they were built over the water.")

By describing the casinos as riverboats, the initiative creates the false impression the these facilities must be able to navigate when the initiative imposes no such requirement.

Finally, while the summary mentions taxes, and compulsory appropriations for specific purposes, it fails to mention the fact that the amendment creates a trust and that net proceeds of taxes and fees would be paid into the trust. This is not a case where the trust merely serves to implement the chief purpose of an initiative. The trust assists with performance of the governmental function of taxation. Voters should be given clear notice of that fact in the summary.

A summary is misleading if it leaves out material facts. Advisory Opinion--Limited Political Terms, 592 So.2d 225, 228 (Fla. 1991). It is certainly material to a voter's decision to know that a trust fund is created; to know whether Counties and Districts could choose among the kinds of facilities that would be authorized; to know what will be authorized by the term "riverboats; and to know that casinos will not be prohibited by this amendment because they are currently prohibited.

While an initiative summary need not contain every detail, it must accurately advise voters of what new circumstance will exist if the initiative passes. Advisory Opinion--Restricts laws Relating to Discrimination, 632 So.2d 1018, 1021. It must be accurate and informative. Id.

The ballot summary in this case fails to specify what the state of the law will be after the amendment is approved, and it omits material facts. The summaries statement that "[t]his Amendment prohibits casinos" will mislead some voters into believing that a new protection is being created, when in fact an

existing protection is being removed. Florida League of Cities v. Smith, 607 So.2d 397, 399 (Fla. 1992)(initiative that misleads voters into believing new protection is created, when in fact existing protection is being removed is defective). The initiative must be denied a place on the ballot.

The ballot summary also fails to put voters on notice, as does the entire initiative, that the amendment would fundamentally change the State's relationships with indian tribes and would have the collateral side effect of authorizing casino gambling on indian lands. This and the initiative's other substantial collateral side effects violate the single subject rule. Advisory Opinion--Restricts laws Relating to Discrimination, 632 So.2d 1018, 1022(Kogan J. concurring)(citing Florida League of Cities v. Smith, 607 So.2d 397.

An initiative summary may not omit facts that are essential to understanding the proposed amendment without misleading voters Id.

CONCLUSION

WHEREFORE, No Casinos, Inc., respectfully requests that the Court enter an order finding that for all of the foregoing reasons the County Choice Casinos initiative violates the single subject rule of Article XI, section 3, Florida Constitution, and that the ballot title and summary are in violation of section 101.161, Florida Statutes.

Respectfully submitted this 8th day of August, 1994.

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APPENDICES

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Ethical and Policy Considerations in the Spread of Commercial Gambling

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INTRODUCTION

By the 1990s in the United States, Canada, the European Community, Australia and New Zealand, there had emerged a substantial increase in the legal and social acceptance of commercial gambling. Gaming industries had become increasingly sophisticated and legitimate to reflect this reality. From a consumer's perspective, gambling had transformed itself over the last thirty years from an inappropriate 'sinful' endeavor to a mainstream participatory activity. Furthermore, as acceptability had increased, various special interests, ranging from charities to churches to private enterprises to government agencies, lobbied for the right to offer commercial gaming services to the general public so as to capture the resultant economic benefits, often for some higher purpose than merely their own self-interest.

But in spite of its increased presence and acceptance, gambling remained quite controversial as an activity and a commercial enterprise. Attempts to bring about its expansion or to change the existing institutional structures that offer gambling services would often encounter vociferous opposition. Furthermore, commercial gaming industries would still come under question on legitimacy grounds. They would often be stigmatized by old perceptions such as ties to organized crime, association with political corruption or links to moral decay. Clearly, some of these perceptions had valid historic roots, though many were based on exaggeration or had become outdated by changing legal or institutional factors. Yet, there were enough vestiges of the past surrounding commercial gaming to keep members of the interested general public wondering about the actual level of integrity - or lack of it - associated with commercial gaming industries and their regulators on one hand, and the possible negative social effects of widespread gambling on the other. Furthermore, there had been considerable variation in experience among jurisdictions that allowed commercial gaming. In some, the issues of corruption, social damage, and adverse impacts were perceived as considerably more severe than in others.

But for the most part, public policy attitudes towards gambling throughout the industrialized world had shifted from viewing gambling as a vice to seeing it as an opportunity to be exploited. This is perhaps the main reason why there was, and continues to be, such a strong trend toward legalization of new forms of commercial gaming and the relaxation of constraints on existing commercial gaming activities over the past decade. Based on the events leading up to the mid-1990s, these trends promise to continue and perhaps even accelerate by the turn of the twenty-first century.

ETHICAL AND POLICY ISSUES IN JURISDICTIONS THROUGHOUT THE WORLD

As possibilities for legal commercial gambling have arisen in various countries through legislative or other processes, policy-makers have had to weigh a variety of economic, moral and social considerations. The economic impacts of introducing commercial gaming industries are generally tangible, quantifiable and perceived as positive, whereas moral issues and social impacts linked to gambling are usually intangible, difficult to measure and on balance considered to be negative. However, when gambling is moved from the list of prohibited activities into legal status with specified criteria for eligibility for gambling suppliers and particular rules as to how gambling services can be offered, substantial potential economic rents often arise. Allocation of such economic rents then becomes an integral part of the public policy process, though allocation of the social costs is usually ignored.

Generally speaking, the latent demand among the general public to participate in gambling activities emerges when gambling moves from illegal to legal status. Revenues generated by legal gambling typically far exceed the volume of illegal or social gambling that such legalization might have displaced. Furthermore, since the guidelines by which commercial gambling can be operated and controlled are created by a political process, the allocation of economic rents to 'deserving' parties also becomes part of the deliberation.

The fact that there is a strong latent demand for gambling - that, given the option, many people will choose to gamble - has not by itself been a sufficient reason for moving from prohibition to legalization. In order to be politically acceptable, the legalization of gambling must be linked to one or more 'higher purposes' that can receive a portion of the created economic rents and overcome the arguments against gambling. Such higher purposes can be grouped into tax benefits, investment stimuli, job creation, regional economic development or redevelopment, and revenue enhancement for deserving interests.

Thus, for example, lotteries have been introduced for the express purpose of enhancing government revenues. Casinos have been legalized in hopes of stimulating local and regional economies, and revitalizing or bolstering existing tourist industries. Charities have been authorized to sponsor a variety of gambling activities - such as bingo, pull-tab tickets or 'Las Vegas nights' - because the revenues extracted from gambling's excess rents allows the organizations to better fulfill their charitable objectives. Indian gaming in America and Canada has received political support because of its ability to provide economic development opportunities and wealth for otherwise impoverished Indian tribes and bands.

But seldom does gambling become legal without a public debate on both its merits and its costs. The traditional arguments against gambling are threefold:

1. Gambling is immoral and works against family and social values that directly link reward to hard work. Such values require the head of household to contribute income for the well-being of the family unit rather than squander it on vices. They also encourage activities that lead to self-improvement rather than the wasting of time;
2. Gambling is inseparable from law-breaking, political corruption, and infiltration by organized crime. This is because it preys on the weaknesses of individuals for whom gambling leads to irresponsibility. Law-breaking will take place even with legal gambling because the need for gambling money will lead some to theft or embezzlement, to deal with 'loan sharks', or to pursue other illegal means to stay 'in the action'. Political corruption will take place as long as society establishes rules to legally constrain gambling or prohibit certain types of gambling, and public officials have the ability to thwart such constraints or prohibitions by 'looking the other way' or removing them in return for bribes or other considerations. Organized crime can enter any vacuum created by an activity linked to gambling which is popular but officially prohibited. Such activities are placed outside the reach of normal contract law and can therefore be exploited through a 'black market' in such a manner as to meet demand; and
3. Gambling can lead to personal and family tragedies from compulsive or pathological gambling behavior. Some individuals who are unable to control their gambling behavior will financially ruin themselves and their families as a result of gambling. Alternatively, irresponsible gambling will lead to greater personal and financial stress on the individual and his or her family, and may manifest itself through greater degrees of family problems in the form of erosion of trust and communication, increased spousal or child abuse, or a higher incidence of family disintegration.

In public debate concerning gambling legalization, policy makers must evaluate the strength of these arguments in light of the consequences of keeping gambling in a prohibited state, even though there is no guarantee that illegal gambling will truly be prohibited, in comparison to circumstances where gambling will be legally sanctioned but constrained through a variety of regulatory or statutory options.

The general objections to legal gambling have weakened during the second half of the twentieth century. Moral arguments, which in the past had been most strongly put forward by churches and government bodies, have suffered partly because of the diminishing authority such institutions presently carry in comparison to

previous times, and partly because many churches and governments have themselves become actively involved - through charitable gambling, church bingo and lotteries - in the delivery of gambling services. Furthermore, in comparison to previous generations, the attitudes of the general public do not rank gambling as much of an immoral activity in the 1990s.[1]

Political corruption and organized crime concerns are likely to emerge in an environment where gambling is either prohibited or highly constrained but where public officials have some discretion as to whether they will enforce the law. As legal commercial gaming has become more legitimate and established, and as regulatory bodies have become more professional and sophisticated, the opportunities for corruption and for organized crime infiltration into gambling operations have diminished.

The issue of compulsive or pathological gambling is complex. There are really two related issues that emerge: first, how prevalent is the incidence of compulsive gambling, especially when society changes the legal status of gambling; and second, what strategies will be most effective in shaping policies that deal with the consequences of compulsive gambling, whether or not it is legal. The issue of incidence involves both the question of definition - what constitutes being a 'compulsive gambler' - and measurement - the number of compulsive gamblers in jurisdictions with different degrees of access to legal or illegal gambling opportunities. Though still an area that needs considerable refinement, studies that have been completed in the United States and elsewhere indicate an incidence of compulsive gambling of between one percent and five percent of the adult population.[2] Furthermore, greater access to legal gambling seems to lead to a greater incidence of compulsive gambling.

On the question of appropriate public policy, some comparisons can be made regarding societal treatment of gambling and other 'morally suspect' activities. On one hand, with gambling, there has been a trend toward allowing people to have greater control over their choice of activities and to be more responsible for the consequences for their actions. But this principle has not been applied uniformly over the so-called 'vices', such as alcohol, tobacco, illicit drug use, prostitution and pornography. These vices, along with gambling, have similar economic and social characteristics: strong demand for consumption of the activity from select segments of the population, an acknowledgement that the activity must be constrained to some extent to control its negative social consequences, and a history of changing social and legal tolerance and acceptance. With some activities - such as illicit drugs - there has been a strong drive to prohibit both use and sale, accompanied by severe penalties for violations of legal sanctions. With other activities - such as tobacco smoking - there has been an increase in restrictions on both users and producers, partly to protect the potential smoker against being 'seduced' into

smoking (thus prohibitions against certain types of marketing) and to protect non-smokers from the health and aesthetic costs of having to share space with smokers (leading to the creation of 'smoking prohibited' spaces). In some cases, the response has been with stiffer penalties on those who abuse the activity - as with more severe penalties for drunken driving violations - or selective non-enforcement of the law in certain geographic areas, as with street prostitution.

Compulsive gambling has been variously interpreted to indicate that the individual has little or no control over his or her actions while gambling, and therefore cannot be held responsible for the consequences.[3] Because of this, it has been difficult to ascribe guilt or responsibility to the adverse consequences that arise from compulsive gambling. To prohibit gambling penalizes the majority for the weaknesses regarding gambling behavior inherent in a distinct minority. To allow gambling but require commercial gaming industries to absorb the costs and consequences of compulsive gambling places an undue burden of identification and policing upon suppliers of gaming services. To hold the individual fully responsible for actions done as a result of gambling raises the specter of diminished capacity. Thus, government is often expected to mitigate the severity of compulsive gambling through appropriate regulatory and operational constraints both on operators and gamblers.

If legal gaming industries already exist when a jurisdiction is considering introducing new forms of commercial gambling, the economic trade-offs can become more difficult and the moral and social costs more ambiguous. For example, pari-mutuel wagering associated with thoroughbred racing has had a considerably longer legal status than most other forms of gambling in many countries. However, when other forms of commercial gaming are introduced, pari-mutuel wagering often suffers from the new competition.[4] Thus, as a result of the economic threat, racing lobbies often become formidable opponents to the introduction of new forms of legal gambling in their jurisdictions, but instead of couching their arguments on the adverse economic impacts, they often revert to moral or social arguments which criticize gambling in general.

When this occurs, existing legal gaming industries often find themselves in the company of organizations who oppose gambling for more idealistic grounds: church groups who are morally opposed to gambling and its impact on values and the family; law enforcement agencies who are concerned about the potential for criminal spill-overs; and social services organizations, who see gambling as a disruptive factor for a class of people whose lives are already somewhat tenuous. However, the general effectiveness of such campaigns in opposition to gambling have weakened in recent years in the face of apparently successful and acceptable new forms of legal gambling.

Moral and social considerations are difficult to identify and evaluate in the legislative process. Whereas economic impacts are tangible and quantifiable - in the form of jobs, payrolls, tax revenues, and new investments - negative social impacts are usually qualitative and intangible - such as increased financial distress within families, a greater incidence of spousal and family abuse, and a higher propensity for embezzlements and petty theft. Because of the historic prohibitions against gambling, there are concerns about what widespread gambling might do to if unleashed on a previously unexposed public. Because there has been so little experience with easily accessible commercial gaming in the past, introducing gambling rapidly and openly carries with it many risks of the unknown - of what might go wrong in society as a bi-product of a cornucopia of available gambling opportunities.

Yet, even when a jurisdiction makes the commitment to legalize a form of gambling for whatever 'higher purpose', there is usually enough lingering doubt concerning the wisdom of such an act as to induce policy makers to saddle the new industries with a variety of regulations and constraints that will hopefully mitigate the potential for social damage, or protect existing economic interests. Such regulations might be directed at protecting consumers of gambling from their own folly, such as with prohibitions against the granting of credit for gambling purposes, maximum wager size limitations or maximum loss limits. They may take the form of restrictions on the ability of the gaming industry to promote itself, as with prohibitions on advertising or solicitations. They might restrict the access to or ambience of the gambling activity, as with geographic constraints, entrance fees or dress code requirements, mandated closing hours, or prohibitions against alcohol or live entertainment. Or they might protect the existing competing gaming or non-gaming industries by limiting the areas in which newly legalized gaming operations might compete.

Such restrictions are usually above and beyond the 'fundamental' objectives of regulation, which are: to protect the integrity of the games and wagers by regulating against cheating and fraud; to protect the integrity of tax collections by requiring acceptable accounting standards and practices; and to protect the general integrity of the gaming industry by establishing procedures to guard against infiltration by undesirable into ownership and management positions in gaming operations.

In summary, though many legislative bodies have chosen to allow commercial gambling to become a legal presence within their jurisdictions, there remains enough lingering doubt about negative side-effects that such authorization is often accompanied by a wide array of restrictions and regulations to limit the overall negative impacts that might arise. Yet when placed within the context of increasing presence of commercial gaming activities, such restraints might later be analyzed more in terms of their adverse

competitive impacts. This creates the dynamic that will likely influence the future policy debates among decision makers for how best to allow commercial gaming to exist within the social framework.

Thus, a common theme that emerges among industrialized countries is the struggle to answer the following broad questions. If commercial gambling is going to be authorized:

- who should be allowed to capture the economic rents associated with supplying gambling services;
- how should the general public be protected against their own potential weaknesses when confronted with the opportunity to gamble; and
- how should the interests of other presently legal industries, whether involved with gambling at present or not, be protected against the adverse competitive pressures that could arise?

The following discussion looks specifically at the experience in the United States in trying to provide some insight into these issues.

COMMERCIAL GAMING AND THE LEGALIZATION PROCESS: THE U.S. EXPERIENCE

From the mid-1960s to the 1990s, the proliferation of gambling took place in a variety of ways in different countries throughout the world. Yet important common patterns emerge, and many of these are reflected by the experience of jurisdictions in the United States.

Legalization of commercial gaming in the United States has tended to be directed at specific objectives, which primarily have been economic in nature. There are four main commercial gaming industries in America that have emerged in the second half of the twentieth century: lotteries, casino-style gambling, pari-mutuel wagering, and charitable gambling. Each will be discussed in the context of the challenges pointed out above, and with regard for the policy alternatives that have presented themselves.

LOTTERIES

Lotteries, which were outlawed in all the United States by the end of the 19th century because of widespread fraud and corruption, were reintroduced into New Hampshire in 1964. The first twentieth century lottery was authorized primarily for tax revenue generation purposes, serving as a form of 'voluntary' taxation that would be paid for largely by residents of other states. This lottery model was copied and improved upon by neighboring states so that, by the

1990s, lotteries had spread throughout the country.

In terms of understanding why modern lotteries came back to America, it is useful to note their initial organizational and market structure characteristics.[5] Lotteries were created by state legislatures as government-owned monopolies whose explicit purpose was to generate revenues for state government. This would allow states to avoid having to increase other taxes. Advocating traditional tax increases had become politically unpopular in the United States, especially by the 1970s. With a monopoly on lottery gambling, the states could charge monopoly prices and extract monopoly rents, which they typically did. Of every dollar spent on lottery products, fifty percent would usually be retained by the lottery and the other fifty percent would be paid back to lottery winners as prizes.

Once one or more states were successful in operating lotteries in a region, pressure increased for non-lottery states, especially those adjacent to lottery states, to jump on the bandwagon. Where introduced, lotteries were proving popular as a 'harmless' form of gambling. In States without a lottery, citizens would often cross borders to purchase lottery tickets. These situations eroded the arguments in opposition of lotteries.

By 1992, lotteries had spread to over thirty-four states encompassing more than eighty percent of America's population. Gross sales before payment of prizes for lotteries in 1991 exceeded $20 billion. Furthermore, many of the remaining non-lottery states were under increasing pressure to authorize their own lotteries.

Lotteries have had the general effect in the United States of sanitizing and popularizing commercial gaming in the minds of the general public. State lotteries have introduced more Americans to commercial gaming than has any other form of gambling. Lottery-style gambling, as run by the government, has also been economically successful and free of scandal, and because of that, many of the older images linked to other forms of gambling, such as corruption, nefarious characters, rigged games, and destroyed lives, were revised in light of the relatively clean image of lotteries.

But lotteries have not been free of controversy. There are various intriguing and difficult policy issues that have emerged with American style lotteries. First on the list is the question of whether the government should even be in the lottery business. Lotteries in the United States are big business, but there is enough lingering sentiment about gambling being morally suspect that a case can be made over whether the government is best serving its citizenry by acting as a supplier of gambling services. It is one thing to authorize an activity and then regulate it in the public interest. It is quite another to establish a legal monopoly, and then exploit that monopoly for revenue purposes

without an obvious system of regulatory checks and balances.[6]

A second and related controversial issue regarding lotteries is whether government should be using sophisticated marketing techniques to increase lottery sales. Lotteries in America are sold with the same verve and effectiveness as are soaps, beer, and other consumer commodities. Furthermore, there is little doubt that lottery sales are strongly influenced by marketing efforts. However, because of the morally ambiguous view toward gambling that is held in some quarters, it is legitimate to pose the question as to whether the lottery is indeed a product that should be sold with the same techniques that are so effective with other consumer goods.

A third concern that lotteries raise is whether governments should be concerned that lottery sales are disproportionate among society's have-nots. Lottery Commissions, because they are political bodies, have always been sensitive to the issue that government revenues raised through lotteries are effectively regressive taxes.[7] People who buy lottery tickets come disproportionately from lower income groups, disadvantaged groups, ethnic groups, the elderly, the unemployed and the gullible. Furthermore, as competition for discretionary income gets stronger and niche marketing becomes more finely tuned, it is likely that these groups are where new market growth for lottery products will most effectively be developed. To the extent lotteries are, by their essence, a tax - indeed, some observers have called them 'a tax on the stupid' - if a greater proportion of income from lower income groups is spent on lotteries, then lotteries represent a regressive form of taxation.

Probably the most intriguing question for lotteries in the future is whether lotteries should expand by introducing forms of gambling that are traditionally not lottery products. Perhaps the best illustration of this is video lottery terminals, or VLTs.[8] VLTs were introduced by the South Dakota Lottery in 1989, and by the Oregon, Louisiana and West Virginia lotteries in 1992. As revenue generators, the VLTs have been quite successful in their first few years of operation. In South Dakota, for example, there were about 6,000 units placed in age restricted outlets such as bars and taverns throughout the sparsely populated state by 1992, and the gross winnings of all VLTs amounted to $150 million, or about $200 per capita. Such performance is quite strong in comparison to traditional lottery sales in the United States.

This experience is occurring at a time when Lottery Commissions in many states are finding the sales growth of traditional lottery products flattening or declining. As a result, there is considerable political pressure on Lottery Commissions to find new ways to expand lottery sales. Many lotteries are considering introducing gambling activities that traditionally have not been viewed as lottery games but rather as casino games, such as VLTs or

Keno, or heretofore illegal forms of gambling, such as sports pool wagering. As such, lotteries are becoming more exciting, more interesting, and potentially more addictive and damaging to society at large. Furthermore, as states and provinces confront record budget deficits in the 1990s, pressure for better revenue performance by lotteries will likely continue consideration of this type of product development.

When lotteries were established in the various states, casino-style gaming was uniformly illegal in every one of them. Furthermore, when lotteries were authorized, the kind of gambling envisioned within the lottery legislation was usually far more passive and uninteresting than interactive casino-style gambling. Aside from the legal issue of whether lottery laws can be used to authorize casino-style gambling under the aegis of the lottery, there is a broader ethical question of whether statutes prohibiting casino-style gambling should be invalidated by administrative action of a Lottery Commission. In total, the conflicts inherent in these issues pose intriguing questions about lotteries that are far from being resolved.

CASINOS

The second major commercial gaming industry in the United States in terms of gross gaming revenues is casino gaming. Since 1988, many American jurisdictions have begun the process of determining how the economic opportunities that casinos promise can best be exploited. Until the mid-1970s, Nevada was the only state in the United States that allowed ongoing casino operations. In 1976, New Jersey voters authorized the development of a casino industry in Atlantic City which has since grown in terms of gross gaming revenues to nearly the size of Las Vegas' casino industry. However, all other attempts to bring casino gaming to the United States between 1976 and 1988 failed.[9]

However, beginning in the fall of 1988, three important events occurred that began a process of rapid change in the presence of casino gambling in the United States: a statewide ballot issue in South Dakota approving limited stakes casino gaming in the small mining community of Deadwood; passage by Congress of the Indian Gaming Regulatory Act of 1988; and legislative approval of riverboat gambling in Iowa in early 1989. Since then, the presence of casino-style gambling in America has exploded, with a wide variety of new forms of casino gaming appearing in various jurisdictions.

There have been distinct patterns which have emerged from these consequential events. Both the South Dakota and Iowa authorizations began with the implicit premise that those forms of casino gaming were relatively benign and controllable in terms of their possible negative social side effects. The South Dakota

referendum, for example, limited the maximum wager size to $5 and kept casino operations small by allowing no more than thirty table games or gaming devices per casino license. Furthermore, the remoteness of Deadwood would minimize social problems that might be associated with casino gaming.

In Iowa, casino gaming was restricted to riverboats along major waterways only. Admissions fees would be charged to gain entrance onto the riverboats, wagers in excess of $5 were not permitted, and players were limited to a maximum loss of $200 per riverboat excursion. Furthermore, the state of Iowa earmarked three percent of gross gaming revenues for problem gambling treatment programs in the state.

Both South Dakota and Iowa began casino gaming with the belief that the economic benefits which casino gaming would create would be within the scale of what the affected communities could utilize. Both states devised constraints that would limit casino gaming's appeal to out-of-state or major corporate interests. And Iowa established funding mechanisms to mitigate whatever damage might occur as a result of casino gaming.

Though they did not realize it at the time, South Dakota and Iowa established models for other states to follow suit with variations of mining town casino gaming and riverboat casino gaming respectively. The pattern that emerged was for new jurisdictions to copy the legislation of their predecessors, but to be slightly less restrictive in the regulations governing their new casino industry. Thus, when Illinois authorized riverboat gambling in 1990, they allowed credit and did not incorporate maximum wager limits or loss per excursion limits. When Mississippi legalized riverboat casinos in 1990, they allowed 'dockside' casino operations, which implied not only that riverboats with casinos did not have to sail on the river; such casino facilities did not even have to be boats as long as they were built over the water. Missouri's 1992 referendum authorizing riverboat casinos also allows boats in some locations to remain dockside. When the voters of Colorado approved small stakes casino gaming for three Rocky Mountain mining towns in 1990 based on South Dakota's approach, they did not restrict the size of the gaming operations to any pre-set number of games or devices.

Indian gaming has had a different set of political consequences. The Indian Gaming Regulatory Act was passed in response to a Supreme Court decision in 1987, Cabazon v. the State of California.[10] The Cabazon decision recognized that Indian tribes in America were autonomous governmental entities which existed within states but were independent from civil or regulatory control from the states. Thus, if a state allowed any person for any purpose to operate gaming within their jurisdiction, then Indian tribes with reservation land within that state could not be prohibited from operating the same type of gambling on tribal land.

Furthermore, the state could have no regulatory authority over the Indian gaming operations within their borders.

Cabazon carried the implication of the unregulated spread of a variety of forms of gambling, so Congress passed the Indian Gaming Regulatory Act - IGRA - to create a framework for states and tribes to negotiate what forms of Indian gaming would be allowed and how the state's public policy interests might be protected through regulatory oversight. However, when IGRA was passed into law, it was still unclear what its true impacts would be. IGRA noted that states must negotiate in good faith with Indian tribes, and that if states did not negotiate in good faith, tribes could go to federal court for mediation or arbitration. As a result, many of the important consequences of IGRA and Indian gaming have come about as a result of Indian lawsuits and court interpretations.

Either by negotiating processes or through judicial findings, Indian casino gaming spread rapidly in the five years following IGRA's passage. Major Indian casinos appeared in the states of Connecticut, Wisconsin, Michigan, Minnesota, Washington, California and Arizona. Often Indians were able to gain the right to operate full-service Nevada-style casinos because the state in which their tribal lands are located allowed a highly restricted form of casino-style gambling, such as charity 'Las Vegas' casino nights. Because such situations led to full scale casino gaming for Indian tribes within those states, the public policy debate was substantially changed. No longer would states have to debate the issue of whether or not to have casinos; Indian casinos were clearly established. Rather the debate shifted to how many casinos a state should have, where they should be located, and who should benefit. As of 1993, it is clear that Indian casino gaming is continuing to spread throughout the United States, and following closely behind it will be the continued proliferation of non-Indian casino gaming.

Another noteworthy development of American casinos has been the emergence of urban casino gaming. Historically, casinos in Europe and America had been geographically isolated from population centers, at least partly because of a belief that casinos are deleterious for urban working class populations. Legal American casinos in operation as of the end of 1992 - whether in Nevada, Atlantic City, or in mining towns, on riverboats, or on Indian reservations - had all held to that general pattern. However, in 1992, New Orleans became the first American jurisdiction to legalize an urban casino, with passage of a law authorizing a monopoly casino for that city. Subsequently, St. Louis and Kansas City, Missouri authorized riverboat casinos close to their urban centers. Other American cities such as Chicago, Hartford and Bridgeport, Connecticut actively debated the possibility in 1992.[11]

Other cities unsuccessfully attempted to legalize casinos in recent years because they found themselves in dire economic straits and

felt that casinos offered one of the only ways out. Such cities as Gary, Indiana, Detroit, Michigan, and East St. Louis, Illinois, share an economic desperation not unlike what prevailed in Atlantic City in 1976. There is very little economic hope left for these places, and a casino or casinos could perhaps save them. However, there are harsh lessons to be learned for such cities from Atlantic City, especially as far as urban redevelopment is concerned.[12] In Atlantic City, the creation of a casino industry that brought 30 million visitors to the city each year, and created over 50,000 jobs, did not alleviate the urban blight or poverty that had plagued that city. Regrettably, because of the similarities of Atlantic City to these other cities - in terms of economic desperation and circumstances - the same general disappointing outcomes would also likely apply.

The past decade has also brought about significant growth and change for the major existing casino cities in the United States. In Atlantic City fifteen years after legalization, the casino industry has grown to apparent maturity, but there is increasing concern about the future health of Atlantic City and its casino industry. Between 1988 and 1992, over half of Atlantic City's dozen casinos went through bankruptcy, and one of them closed permanently. Atlantic City experienced its major growth in the 1980s and, as with other American industries that expanded in that period, many of the problems of Atlantic City's casinos can be traced to over-leveraging and over-reliance on debt financing for capital expansion. The Atlantic City casino industry effectively gambled that the growth it experienced in the 1980s would continue. It did not, and Atlantic City also failed to cure its fundamental problems, such as urban blight. Some of these problems may no longer be curable, and legalization of casino-style gambling threatens to compete for and cut into some of Atlantic City's eastern seaboard markets. Thus, there is reason to believe that Atlantic City's slowdown in growth may indeed be permanent.

Las Vegas, Nevada, on the other hand, has been a boomtown virtually without precedent. According to the 1990 census, Nevada was the fastest growing state in the United States for the decade of the 1980s, increasing by more than 50 percent to 1.2 million, and Las Vegas was the center of growth in the state. The causes of population growth in Las Vegas are easy to see. About 30 percent of the labor force is employed in the gaming, hotel and recreation sector. By 1994, Las Vegas will have the ten largest hotels in the world, all of them casino-hotels. Las Vegas is probably the premiere convention city in the world, in terms of convention facilities and available hotel rooms. In terms of variety and quality of live entertainment available, Las Vegas compares favorably with virtually all of the world's capital cities. There are over 75,000 hotel rooms in Las Vegas, more than can be found in Manhattan and London combined.

All this has come about in the last thirty years. In the 1960s,

conventional wisdom viewed Las Vegas as a city controlled by organized crime, a place filled with transients, low-lifers and opportunists. The transformation of Las Vegas is a direct result of the popularity and growth of casino-style gambling, and as of the 1990s no end is in sight for its casino-fueled growth boom.

One reason for the continued growth of Las Vegas - and of other casino centers in Nevada - has been the underlying philosophy with which governmental bodies have regulated Nevada's casinos. The principles by which regulators have overseen the casino industry are relatively narrow. The purpose of regulation of casino gaming is to protect the image of the state's casino industry by

- insuring the integrity of the accounting procedures used by casinos to assure the state its appropriate share of taxes;
- monitoring the honesty of the games and wagering opportunities offered so that the public can be confident of protection against cheating; and
- protecting the integrity of casino owners and key employees by precluding undesirable from obtaining gaming licenses.

Nevada has incorporated few moral positions about casino gaming into its regulatory framework, especially in comparison to other American jurisdictions with casinos. Few of the social concerns related to widely available casino gambling have affected Nevada's public policy toward gambling or its regulation of the casino industry. As far as the state is concerned, regulation should not adversely affect the economic performance of the casino industry unless an absence of regulatory action threatens the long run integrity or image of the industry itself. Such feelings are based in the formative period of Nevada's regulation; in the 1950s and 1960s, the real risk to the state's casino industry was the threat of federal intervention because of historic associations with organized crime and a federal view that gambling was morally wrong.[13]

The regulatory process in Atlantic City, by contrast, is far more cumbersome on casinos in terms of restrictions, requirements, and costs of regulatory compliance. This is at least partially due to the position that New Jersey regulatory bodies have been reluctant to give up control of a variety of areas of decision-making that in Nevada are left to the discretion of casino management.

But in spite of its recent successes, there are questions about the Las Vegas casino economy that pose concerns over the next few years. There is an ongoing issue about if and when Las Vegas will become over-built. And if it does, there might be severe attrition among the older, smaller casino properties, which may not be able to compete effectively against the newest and largest 'must see' casino destination resorts that have been built in that city. Most fundamental is the question of whether tourists will continue to visit Las Vegas, and spend as much time and money there, when they can find casino-style gambling opportunities in a variety of other

states and jurisdictions throughout the country.

PARIMUTUEL WAGERING

The third component of the American commercial gaming industries is pari-mutuel wagering, in the form of on-track horse racing and dog racing, along with jai alai and off-track wagering.[14] Pari-mutuel wagering in America is clearly the weakest member of the American commercial gaming industries. Generally speaking, pari-mutuel wagering has not been able to effectively compete against other legal forms of gambling during the expansions of the past three decades. It is vulnerable to virtually any competition from alternative forms of commercial gaming, whether they are lotteries, casino-style gambling, sports betting, or even charity gambling.

The economic plight of the pari-mutuel wagering industry can be attributed to difficulties associated with new player development. these in turn are probably related to the fact that it takes much longer to become proficient at handicapping races than it does to master other forms of gambling. Furthermore, the racing industry has not been very effective in broadening the base of pari-mutuel bettors. Finally, pari-mutuel wagering, especially on-track horse racing, used to be the 'only game in town'. The loss of racing's regional monopolies over legal commercial gaming with the introduction of new legal gambling options has undoubtedly contracted the size of pari-mutuel markets.

However, because of their long term economic weakness and their vulnerability to competition, the parimutuel wagering industry and the horse racing industry have become quite politically astute in America. Often, they have been the major opponents to new forms of commercial gambling. In the casino campaign in Ohio in 1990, for example, the racing industry was the major contributor to the opposition, mounting a war chest of $1 million. Opponents to casinos argued through the media that casinos would bring organized crime, compulsive gambling and other social costs to Ohio, yet managed to skirt the issue of similar problems with the racing industry. However, it is clear the economic interests of the racing industry were at risk should the casino referendum have passed.

CHARITABLE GAMBLING

The final component of commercial gaming industries in America to be noted here is charitable gambling. Charitable gambling, in the form of bingo, pull-tab tickets[15], and low stakes casino-style gambling, is an activity that often gets ignored when examining gaming industries, but in many parts of the United States, it is a rapidly growing, though somewhat disorganized, industry. Furthermore, it has achieved significant dimensions in some

jurisdictions. For example, in Minnesota, with a population of just over four million, total charitable gambling sales were approximately $1.2 billion in 1991, with gross gaming win of about $230 million.

However, charitable gambling has typically been under-regulated, often encountering serious problems with theft, cheating, accounting irregularities, and fraud.[16] One of the main reasons why under-regulation of such activities occur has been a naive attitude on the part of authorizing legislative bodies that strict regulation would not be necessary because people working for charities would not steal or cheat, perhaps because they were committed to the causes reflected in their charities. Experience has demonstrated that this is not the case, and the lack of regulation in charitable gambling has led to numerous scandals and control problems. It has been a common pattern that when gambling is established without regulation or oversight, eventually someone will have their hand in the till.

THE INTERACTION OF ECONOMIC FORCES AND POLICY OBJECTIVES

As more forms of commercial gaming compete for what eventually will be a saturated commercial gaming market, some policy objectives will come into conflict with the economic viability and survivability of competing forms of gaming. As new gambling activities become available to the general public, they will displace other less convenient, less exciting, less cost effective, or less accessible forms of gambling. For example, racing and pari-mutuel wagering in the United States will likely continue to go through major contraction because of the proliferation of other competing forms of gambling and their inability to effectively compete.

One of the effects of economic hardship on a socially regulated gaming industry is the pressure that arises at a political level to bring about a relaxation of the constraints under which the industry must operate. Initially, a gaming industry may have been legalized because policy makers felt it could be controlled - symbolically or in reality - and made acceptable through constraints on location, operations, or wagering conditions. Pragmatically, such rules may initially have been the only way to make such gambling legislation politically palatable to opponents. However, once a gaming industry is established in a region, it begins the process of becoming legitimate - as a taxpayer, an employer, and a member of the local or regional community. If its continued existence is threatened by competitive forces, it becomes far more difficult to argue to preserve the social constraints, especially if they have not been very effective in accomplishing their initial purposes.

This pattern has already begun to emerge among some of America's new gaming industries. Iowa provides an excellent example. Though its riverboat casinos only began operations in 1991, there already

been substantial attrition in the state's riverboat gaming industry. Two of the original five riverboat casinos closed after the first year, and moved to more favorable gaming markets and regulatory environments in Mississippi; a third was scheduled to cease operations within two years of its inauguration and move to a better location in another state. Part of Iowa's problems are related to location, but some of their economic difficulties can be linked to the 'socially responsible' legislation they initially passed for their riverboat casinos. The $5 maximum wager and $200 maximum loss per excursion limitations were intended to protect customers from problems related to over-indulging in gambling, but riverboats in operation across the Mississippi river in Illinois are not subject to such limitations and therefore are more appealing to customers who do not want to gamble under such constraints. The same can be said about Iowa's prohibition against casino credit in contrast to Illinois' allowance of credit.

Remote locations for gaming operations - which were initially tolerated because they were distant from population centers - may become the unwitting victims of the changing legal norms governing access to gambling. For example, Deadwood, South Dakota may find its casino industry contracting in the 1990s because of competition from more recently authorized gaming venues which are closer to their customer markets. In general, customers will choose the convenience of gambling venues close to where they live if they are able. In the same manner, Nevada's gaming industry is vulnerable to legal changes regarding gambling in California, where most of Nevada's gaming customers live. It is clear that if California legalizes casinos, video lottery terminals or another similar product, it would have major negative impacts on the state's casino gaming industry. Alternatively, if California State policies open the door to Indian casino gaming in that state, it is likely that it would be followed by a proliferation of non-Indian gaming as well. Any of these events could adversely affect Nevada's gaming primarily because Nevada would be at a distinct locational disadvantage.

Atlantic City is perhaps most vulnerable of all to the proliferation of gambling, because it has a casino industry whose major attraction to date is that it is the closest locale with casino gaming to the population centers of New York, Philadelphia, and Washington, D.C. Atlantic City does not have much to offer its visitors besides the gaming that can take place in its casinos. Thus, if new locations develop with casinos that are more convenient to its primary markets, Atlantic City will lose customers to the new venues. It has relatively little it can draw on to develop or retain the loyalty of its customer base in a more competitive gaming environment. The best the casino industry there can hope for is to ask legislators and regulators to relax many of the expensive regulations so that they would be better able to compete with new competitors. Even that may not be enough.

CONCLUSIONS

The experience of the United States provides an interesting case study as to the dynamics of legalization of commercial gaming. This is primarily because there are so many autonomous jurisdictions which have the ability and inclination to move quickly in changing the legal and regulatory status of gambling within their authority. In comparison to other countries, gambling policy the United States in the 1990s has been far more focussed on economic - rather than social - concerns. However, this might reflect the tendency for policy makers in America to concentrate on only a single dimension at a time of the impacts of commercial gaming on society.

In past decades, attitudes toward gambling in America were dominated by stereotypes of organized crime and political corruption, as well as concerns over the social damage that could occur from widespread gambling. Such attitudes have clearly been usurped by a combination of the related economic benefits - jobs, tax revenues, capital investment, regional development - linked to the exploitation of commercial gaming. Also, there has been a strong tendency to replicate or improve upon initiatives from other nearby jurisdictions who had already decided to exploit the economic benefits of commercial gambling. This has led to a 'domino effect' of legislation as adjacent jurisdictions try to improve upon the approaches of their neighbors.

In comparison, European countries have tended to alter legislation more slowly, with greater deliberation and greater concern for social impacts. This is reflected in the structure of laws and regulations overseeing commercial gaming. However, the potential for the European Community to force standardization among some commercial gaming industries, in the name of harmonization, equal access to markets and the underlying principles of the Treaty of Rome, may become an important catalyst for change amongst the European countries for the rest of the decade.[17]

In Australia, New Zealand and Canada, governments have kept a tighter degree of control over the ownership and market structure of commercial gaming industries than the United States, and this has created a different dynamic than either the United States of Europe. Because of more socialistic ideologies and a different perspective in the appropriate role of competition versus monopoly in these countries, there has been a tendency to control the creation of new gaming industries in order to shape their ultimate role in local or regional economies, or to more directly capture the economic rents that legalization can bring about. For example, exclusive franchise monopolies to private sector operators has become the standard for casino development in Australia and New Zealand, whereas Canada has experimented with government owned exclusive franchise casino development in Manitoba and Quebec. Economic justifications in these countries are similar to those in

the United States: tourism development, tax revenue generation, capital formation, and job creation. Interestingly, these countries have also been changing the legal status of commercial gaming industries quite rapidly in the 1980s and 1990s, perhaps because of a government perceived need to keep up with competing jurisdictions and the resulting 'domino effect.'

Thus, the trend in recent years to exploit the opportunities associated with the changing social acceptance of gambling has led to a variety of experiments with legalization and regulation of commercial gaming. In the United States and other countries, many of the constraints that were initially placed upon new commercial gaming industries to protect the 'public interest' have become targets for relaxation in response to changes in public and legislative attitudes toward gambling. These may arise as a result of greater understanding of social costs and benefits associated with gambling, but also because of increased competition among commercial gaming industries or governments, and concerns over continued economic viability of established gaming industries. Also, as different sectors of the gaming industries pursue growth opportunities, various new products and new gaming concepts are developed. Such activities will muddy the distinctions among gaming industries such as casinos, lotteries, and the like.

In effect, society's acceptance of gambling as a mainstream recreational activity is becoming increasingly established. However, there is still going to be considerable political infighting over the question of who will be allowed to benefit from offering gambling services to the general public. Potential beneficiaries include governments through lottery commissions and as tax recipients; not-for-profit organizations through charitable gambling or as sponsors of other gambling activities; cities or communities hoping to be designated exclusive franchise locations for gambling outlets in their market areas; and private sector interests as vendors of gaming equipment or suppliers of gambling services.

One other point should be noted. For the United States at least, the political process described in this analysis is driven largely by the opportunistic benefits linked to legalizing gambling. Such policies may be misdirected in the long term because their main justifications are likely to be only temporary. Job creation, tax revenue generation, investment stimulation, and other related benefits will become diluted as gambling proliferates into more and more jurisdictions. Such benefits to a region may only be sustainable if that jurisdiction can hold its monopoly on gambling for some period of time. This is an aspect of the process that other countries besides the United States have a better opportunity to control in the intermediate and long term.

The unstable legal status of commercial gaming in competing jurisdictions in America is usually taken into account by private

investors, who evaluate the financial risks that are present in any project due to the possibility of changing legal status of gaming in neighboring jurisdictions. However, the government sector also has to 'buy in' whenever gaming is authorized, either through infrastructure requirements, creation of regulatory bureaucracies, or other budgetary commitments. Governments quite often are not as conscientious in evaluating their commitments as private sector investors because it is not their own money they are committing. Furthermore, they may be more prone to err on the side of optimism in making projections on the job creating or revenue generating capabilities of new gaming industries. Not every jurisdiction can be as successful as the first one to legalize; economic benefits, especially those that depend upon capturing customers from other jurisdictions, must eventually be dissipated by continued proliferation.

Finally, with regard to the potentially damaging social effects linked to gambling, there is a strong assymetric nature to regulatory and statutory commitments regarding the operation of authorized commercial gambling. This is because it is difficult to increase the constraints on a legally created commercial gaming industry once it has been established and generally accepted, especially when it is under increasing competitive pressures from other gaming jurisdictions.

The events of the last decade do not paint a clear picture of how commercial gaming will evolve over the next ten or twenty years in terms of who will ultimately benefit as suppliers of gambling services or recipients of economic rents. It is clear, however, that if commercial gaming continues to expand its presence in society, the major long term effect will be in terms of improved consumer access to a variety of gambling activities; the economic rents will be dissipated as monopolies are eroded. Whether this is good or bad for society at large will probably remain somewhat questionable. Gambling remains an activity that has considerable moral ambiguity associated with it which may not be dispelled in spite of extensive changes in its legal status.

ENDNOTES

1. A January, 1993 survey conducted by the Home Testing Institute for Harrah's Casino Hotels found 55 percent of Americans found casino gaming as a form of behavior 'perfectly acceptable for anyone' and an additional 35 percent 'acceptable for others but not for me'. Only 10 percent found casino gaming as 'not acceptable for anyone'.

2. See, for example, Rachel Volberg, "Policy Implications of Prevalence Estimates of Pathological Gambling", in Howard Shaffer et. al., Compulsive Gambling, Lexington Press, Lexington, Massachusetts, 1989, pp. 163-174.

3. See, for example, I. Nelson Rose, "Compulsive Gambling and the Law: From Sin to Vice to Disease", in the Journal of Gambling Behavior, vol. 4, no. 4, 1988, pp.240-260.

4. See for example, Richard Thalheimer, "The Impact of Intrastate Intertrack Wagering, Casinos, and a State Lottery on the Demand for Parimutuel Horseracing: New Jersey, A Case Study", pp. 285-294, and Derek Syme, "He manako te koura i kore a - The Dilemma Facing New Zealand's Parimutuel Racing Industry", pp. 315-332, in William R. Eadington and Judy A. Cornelius, Gambling and Commercial Gaming: Essays in Business, Economics, Philosophy and Science, Institute for the Study of Gambling and Commercial Gaming, University of Nevada, Reno, 1992.

5. For an excellent discussion of the evolution of lotteries in America and the policy issues involved, see Charles Clotfelter and Phillip Cook, Selling Hope: State Lotteries in America, Harvard University Press, 1989.

6. Ibid., p. 186-212

7. Ibid., p. 215, pp. 222-227

8. These are electronic gaming devices in the form of video draw poker, video blackjack, and video keno machines.

9. For a discussion of campaigns to legalize casinos in America for this period, see John Dombrink and William N. Thompson, The Last Resort: Campaigns for Casinos in America, University of Nevada Press, 1989.

10. For a thorough discussion of the Act and its implications, see William R. Eadington (ed.), Indian Gaming and the Law, Institute for the Study of Gambling and Commercial Gaming, University of Nevada, Reno, 1990.

11. Canadian provincial governments announced plans in 1992 for urban casinos in the Canadian cities of Montreal and Windsor. The Manitoba Lotteries Foundation opened a small government owned and operated casino in the city of Winnipeg in 1990.

12. See, for example, James Sternleib and Robert Hughes, The Atlantic City Gamble, Harvard University Press, 1983.

13. See, for example, Jerome Skolnick, House of Cards: Regulation of Casino Gambling in Nevada, Little Brown & Co., Boston, 1978, and Richard Schuetz and Anthony Cabot, "An Economic View of the Nevada Gaming Licensing Process", in W.R. Eadington and J.A. Cornelius, Gambling and Public Policy: International Perspectives, Institute for the Study of Gambling and Commercial Gaming, University of Nevada, Reno, 1991, pp. 123-154.

14. The American racing industry does not allow on-track bookmaking as could be found in the United Kingdom, Australia or New Zealand.

15. Pull-tab tickets are similar to 'scratch-out lottery tickets and are sometimes called 'paper slot machines'. The player will purchase such a ticket for about $1, and pull up paper tabs to reveal whether the ticket is a winner or a loser.

16. See, for example, the Fiscal Analyst's report, Lawful Gambling in Minnesota, 1990.

17. See, for example, Coopers and Lybrand, "Gambling in the Single Market", a report prepared for the Commission of the European Communities, Brussels, 1991.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on the persons identified below by hand delivery, or by United States mail, this 8 th day of August 1994.

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