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HOW THE LAW SHOULD LOOK AT GAMBLING ADDICTION

A Thesis
submitted in partial fulfillment of the requirements for the
degree of
Bachelor in Liberal Studies

By

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Abstract

Man is distinguished from the lower orders of Creation by two distinct features: he can reason and he can will his actions. In other words, he is in control of his life.

Even as early as the time of Aristotle, however, a recognition was made of the fact that some human beings exhibit different characteristics of behavior from other men. Aristotle recognized that what he termed "vices" of the body within a man's own power to control were to be blamed. Aristotle distinguished these acts from those which man is unable to control. Some of what he termed "vices," however, have, through the centuries, come to be recognized as forms of illness. It is important to recognize the difference.

The time-worn phrase--due process of law--was first used by Conrad II of England in his feudal decrees. It has come to mean, ultimately, that it is a protection against illegal deprivation of a person's liberty and arbitrary exercise of power. This concept was transferred to the New World by its inclusion in the Fifth Amendment to the United States Constitution. The Fifth Amendment applied to actions of the federal government only--not to state governments. It was not until the passage of the Fourteenth Amendment that the actions of the states became involved. It was Mott\textsuperscript{1} who tried to demonstrate that some laws are involved against common reason. An open act

visible to all such as the government's seizure of property contrasted with the arrest of a man is an act not so visible and causes less sensation. It, therefore, becomes more dangerous to public liberty and it is for that reason that the Constitution has provided that

"no person shall be deprived of his life, liberty, or property without due process of law."²

Liberty, as the Fourteenth Amendment used the term, became equated with property. An immunity was cast about it far surpassing any that had been dreamed of in the philosophy of vested rights.

If there are two polar opposites, they are the words "liberty" and addiction." Addiction comes from the Latin word "addictus," meaning "to give over, as a slave." The term is used in connection with "habits," both good and bad.

Our concern in this work is with one very specific addiction: compulsive gambling. This addiction is not caused by any foreign substance in the body. In the past, the causes cited for it have fallen under the category of excessive anxiety which resulted when the compulsive gambler was presented with certain situations in life beyond his ability to face. It was not until the Behrman³ decision in 1922 that the Court began to view "addiction" (and, in this specific case, a drug addiction) as a disease.

The research on compulsive gambling has lagged forty years behind studies on other addictions. Very recently, the work done by Custer\(^4\) and others has implicated the beta-endorphins, the brain peptides whose effects are similar to those of opiates, such as morphine, as the possible causes of gambling addiction. There is an apparent diminution of the endorphins in the brains of persons afflicted with this disease.

While much work has been done from a medical standpoint, more needs to be done from a legal one. Specifically, the law needs to recognize compulsive gambling as an illness and propose legal safeguards so that the addict will not suffer illegal deprivation of his liberty.

The legal and medical professions must join together in efforts to rehabilitate the compulsive gambler to allow him to become a functioning member of society.

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Preface

There is a growing awareness in the United States of a medical problem which had heretofore been considered a crime: compulsive gambling. It is the intent of this thesis to investigate the many aspects of compulsive gambling and come to some logical and helpful conclusions.

Acknowledgements

Without the encouragement and support of my family, this work would not have been possible.

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PART I
The Philosophical Aspects of the Problem

The Bible writer asks: What is man that you would be mindful of him? (Heb. 2:6)

What is man? What differentiates him from the other orders of Creation? What do we envision when we think of the nature and end of man?

Having inquired into these subjects, what do we think when we see a man who is not perfect in our human vision—not so much that he is physically impaired but mentally impaired? What do we think when we see a man who appears to be healthy in body and mind; who has reached a certain level of maturity without exhibiting any defects either in body or in mind and who then begins to exhibit strange behavioral patterns which fall under the classification of addiction?

What is addiction and how is it viewed by the medical profession and by the legal profession? What various classifications of addictions are there and what is our interest in this present work?

Is there a solution to these inquires and, if so, what is that solution? Why do we care?

Henry B. Veatch has given us a sample of Aristotle's doctrine of the categories—the ultimate heading under which everything in the world can be classified. Aristotle states that all knowledge and every pursuit aims at some good. This good is happiness. He identifies living well and doing well with being happy. Yet, what "happiness" is, differs for each man. To some, it is pleasure; to others, wealth; and to still others, honor.
Aristotle cites Plato's method of questioning, saying we must being with things which we know. Men identify three prominent types of life: happiness, or the good, identifies with pleasure; to others, the political life is what makes them happy; and to still others, the contemplative life is the ideal.

According to Aristotle, people of superior refinement identify happiness with honor. Yet, Aristotle pursues this point further, supposing virtue to be better than honor and that virtue, indeed, is the end of the political life. Yet, Aristotle makes a comparison between the possession of virtue and the state of being asleep. He compares possessing virtue to lifelong inactivity.

The philosopher questions what man means by "the good." He states that

"...there is an end for all that we do, this will be the good achievable by action. There are evidently more than one end, and we choose some of these for the sake of something else; clearly not all ends are final ends." 5

He concludes by saying that

"...we call final and without qualification that which is always desirable in itself and never for the sake of something else." 5

He continues his reasoning to the conclusion that the final good is thought to be self-sufficient.
"Happiness, then, is something final, self-sufficient, and is the end of action."  

Aristotle tries to ascertain the "function" that man has apart from all these (plants, animals—all other orders of Creation), and he determines that an active life of the element that has a rational principle is characteristic to man. The philosopher pursues his point by giving an example of the lyre player. Aristotle states that human good turns out to be an activity of soul in accordance with virtue—and further qualifies that by stating that

"...if there are more than one virtue, in accordance with the best and most complete."  

Aristotle continues that

"...the function of man is an activity of the soul."  

Here he implies a rational principle. He concludes that

"...human good turns out to be an activity of soul in accordance with the best and most complete virtue."  

He identifies happiness with virtue and continues to probe into happiness by questioning whether it is acquired by learning or habituation. He concludes that

"...even if it is not god-sent, but comes to a man as a result of virtue or training, it is among the most god-like things."
Aristotle concludes that

"...no function of man has so much permanence as virtuous activities." \(^\text{14}\)

The philosopher states that virtue will belong to the happy man because he will engage in virtuous activity. He further postulates that

"...if activities are what give life its character, no happy man can become miserable. A man who is truly wise and happy bears all the chances of life, making the best of circumstances." \(^\text{15}\)

And so, Aristotle concludes that

"...he is happy who is active in accordance with complete virtue and is sufficiently equipped with external goods throughout a complete life." \(^\text{16}\)

The philosopher questions whether happiness is a thing praised or prized. As a result of virtue men tend to do noble deeds. It is clear to Aristotle and to us that

"...happiness is among the things that are prized and perfect. It is the first principle." \(^\text{17}\)

It is for the sake of happiness that we do all that we do. It is prized and divine.

The philosopher then discusses a doctrine which has been termed decisely "Aristotelean": "Free will" or volition. Actions must be according to choice and voluntary.
"To practice virtue as well as to practice vice is within our power. ...For we can will to act or will not to act. It is within our power to be virtuous or vicious...No one is voluntarily wicked or involuntarily happy." 18

He continues that no one is involuntarily happy, but wickedness is voluntary. Yet, he qualifies that by saying that if we dispute the foregoing statement, we must deny that man is a moving principle or begetter of his actions.

The philosopher then states that

"Witness seems to be borne to this ...the acts whose moving principles are in us must themselves also be in our power and voluntary both by individuals in their private capacity and by legislators themselves; for these punish and take vengeance on those who do wicked acts (unless they have acted under compulsion or as a result of ignorance for which they are not themselves responsible), while they honor those who do noble acts, as though they mean to encourage the latter and deter the former. But no one is encouraged to do the things that are neither in our power nor voluntary; it is assumed that there is no gain in being persuaded not to be hot or in pain or hungry or the like, since we shall experience these feelings none the less. Indeed, we punish a man for his very ignorance, if his is thought responsible for the ignorance, as when penalties are doubled in the case of drunkenness; for the moving principle is in the man himself, since he had the power of not getting drunk and his getting drunk was the cause of his ignorance. And we punish those who are ignorant of anything in the laws that they ought to know and that is not difficult, and so too in the case of anything else that they are thought to be ignorant of through carelessness; we assume that it is in their power not to be ignorant, since they have the power of taking care. 19"
"But perhaps a man is the kind of man not to take care. Still they are themselves by their slack lives responsible for becoming men of that kind, and men make themselves responsible for being unjust or self-indulgent, in the one case by cheating and in the other by spending their time in drinking bouts and the like; for it is activities exercised on particular objects that make the corresponding character. This is plain from the case of people training for any contest or action; they practice the activity the whole time. Now not to know that it is from the exercise of activities on particular objects that states of character are produced is the mark of a thoroughly senseless person. Again, it is irrational to suppose that a man who acts unjustly does not wish to be unjust, or a man who acts self-indulgently to be self-indulgent. But if without being ignorant a man does the things which will make him unjust, he will be unjust voluntarily. Yet it does not follow that if he wishes he will cease to be unjust and will be just. For neither does the man who is ill become well on those terms. We may suppose a case in which he is ill voluntarily, through living incontinently and disobeying his doctors. In that case it was then open to him not to be ill, but not now, when he has thrown away his chance, just as when you have let a stone go it is too late to recover it; but yet it was in your power to throw it, since the moving principle was in you. So, too, to the unjust and to the self-indulgent man it was open at the beginning not to become men of this kind, and so they are unjust and self-indulgent voluntarily; but now that they have become so it is not possible for them not to be so.

"But not only are the vices of the soul voluntary, but those of the body also for some men, whom we accordingly blame; while no one blames those who are so owing to want of exercise and care. So it is, too, with respect to weakness and infirmity; no one would reproach a man blind from birth or by disease or from a blow, but rather pity him, while every one would blame a man who was blind from drunkenness or some other form of self-indulgence. Of vices of the body, then, those in our own power are blamed, those not in
our power are not. And if this be so, in the other cases also the vices that are blamed must be in our own power. 20

"The man who attains the mean, then, is such as we have described, but has not received a name... 21

"Acts just and unjust being as we have described them, a man acts unjustly or justly whenever he does such acts voluntarily; when involuntarily, he acts neither unjustly nor justly except in an incidental way; for he does things which happen to be just or unjust. Whether an act is or is not one of injustice (or of justice) is determined by its voluntariness or involuntariness; for when it is voluntary it is so that there will be things that are unjust but not yet acts of injustice, if voluntariness be not present as well. By the voluntariness I mean, as has been said before, any of the things in a man's own power which he does with knowledge, i.e., not in ignorance either of the person acted on or of the instrument used or of the end that will be attained (e.g., whom he is striking, with what, and to what end), each such act being done not incidentally nor under compulsion (e.g., if A takes B's hand and therewith strikes C, B does not act voluntarily; for the act was not in his own power)... Therefore, that which is done in ignorance, or though not done in ignorance, is not in the agent's power, or is done under compulsion, is involuntary (for many natural processes, even, we knowingly both perform and experience, none of which is either voluntary or involuntary; e.g., growing old or dying). 22

Aristotle concludes this discourse by saying:

"Of involuntary acts some are excusable, others not. For the mistakes which men make not only in ignorance but also from ignorance are excusable, while those which men do not from ignorance (though they do them in ignorance) owing to a passion which is neither natural nor such as man is liable to, are not excusable." 23
We see, then, that the two elements which separate man from the lower orders of Creation are his power to reason and his willfulness in action. Yet, even as early as Aristotle's time, men discerned that there was a difference between men who acted voluntarily and those who did not.

The ultimate concern of philosophy is the pursuit of human excellence. Such pursuit was held to be virtue,

"...a kind of health and beauty and good habit of the soul; and vice will be a disease and sickness and deformity of it."24

Lowes Dickinson (commenting on this passage) observed:

"It follows that it is as natural to seek virtue and to avoid vice as to seek health and avoid disease...But if there is to be any such thing as ethics, there must be such a thing as personal responsibility. And if there is to be personal responsibility, then one must maintain the claims of something like free choice as a cause of human behavior against the Platonist claim that knowledge is the exclusive determinant of such behavior, and against the determinists claim that external factors are the sole causes."25

In Aristotle's eyes the thing to be sought in life is not happiness as such, but happiness or satisfaction in the attainment of one's natural human end of perfection.
PART II
The Due Process of Law

The archaic phraseology -- "due process of law" -- is first mentioned in the literature in the feudal decrees of Conrad II of England. According to Mott, the phrase is modern:  

"...that no man shall be deprived of his fief, whether held of the Emperor or of a demi-lord, but by the laws of the Empire and the judgment of his peers." 27

King John believed that the barrons were entitled to the right of trial by their peers. In the Magna Carta, which is termed an "agreement," freemen as well as the nobility were included in this protection against illegal deprivation of their liberties and arbitrary exercise of power. The documents referenced make declarations of grievances rather than declarations of rights simply because the "rights" were already assumed to exist.

The wording of the Fifth Amendment to the United States Constitution contains the first use of the phrase "due process of law" in the American document. This Amendment applies only to the actions of the federal government—not to state action. It was not until the enactment of the Fourteenth Amendment that the actions of the states were involved. Mott states that

"It was probably this fact (that the Fifth Amendment limited itself to the federal government) plus the desire to protect loyal citizens in southern states and recently freedmen that led Congress to propose the Fourteenth Amendment." 29
The shortness of the working of this article and the importance which judicial interpretation has given it have been leading factors tending to push it to the foremost part of the Bill of Rights. 30

Mott continues in this vein by stating that

"...the chief value of the Fourteenth Amendment is that it gives Federal Courts jurisdiction over these cases." 31

There was a linking of the phrase "law of the land" and "due process" in what Mott terms the "hybrid concept" which has become the simplest and most far-reaching of the constitutional phrases. It was Coke who attempted to equate the "law of the land" with "justice and right." There is a distinction made here by Mott regarding the legislative power of any government. It is this power which must govern by "established standing laws not extemporary decrees." The ultimate aim of the law is no other end "but peace, safety, and public good of the people." 32

Mott invokes the concept of laws enacted contrary to common reason. He states that such acts are void. He cites Blackstone in his attempts to give a hint of limitations placed on legislative power by the law of nature which is superior to any other law. He states unequivocally that

"no human laws are of any validity if they are contrary to the laws of nature." 33

The check on the extent of legislative power is evidenced by the reliance of writers upon the 39th Section of the Magna Carta which
limits the power of the legislature to take the property or the right to a trial by jury without the colonists' consent.

It was Coke who pressed for the passage of the Petition of Right—which essentially stated that due process of law guaranteed protection from arbitrary, extraordinary, or illegal arrests.34

It was Chapter 39 of the Magna Carta which men cited when they felt their rights threatened. This protection was transported to the New World for in 1641 the Massachusetts Body of Liberties was adopted. The first article of this document was a paraphrase of the 39th Section of the Magna Carta.35

Mott states that another element—regular indictment—was considered essential to criminal proceedings according to due process of law. If such a procedure were missing, there was created good grounds for freeing the prisoner.36

There was evidenced a close relation between due process of law and vested rights. Mott promulgated the concept to view the law of the land as a limitation upon the "impariment of vested rights" or the tyrannical exercise of the police power.37

The application of the due process provision with regard to the taxing power is viewed as important because

"...arbitrary government can only perpetuate itself when it is butressed with the power to raise funds for its support."38

Mott cites this pre-Revolution time as the period when the doctrine of due process became the common property of everyone. It
was then that the way was paved for its incorporation into the
fundamental law of the new nation, America.

Cooley, in his *Constitutional Limitations*, stated clearly that
due process was a limitation on all branches of government. He
insisted that the common law should be the guide but not the master.

At this time there was a decided shift from emphasis on personal
to property rights. The reasoning was that since

"...property rights were apt to cause
litigation, the phrase was bound to become the
bulwark of the propertied classes." 39

Mott cites Freund's work, *The Police Power*, and states that due
process is a restriction on extensive power abuses. Along this same
thought, Mott cites Pence who, in 1891, stated that the purpose of the
Fourteenth Amendment was to protect the individual from state laws
which infringed any of the First Ten Amendments.

As late as 1838 delegates in a Pennsylvania Convention asserted
that the "law of the land" secured to the accused the right of trial
by jury. Mott suggests that the vagueness of the due process
provision is what commended it. In that context it protected the
citizenry from all kinds of governmental arbitrary action.

We see at this time in American history the concern the slavery
issue was causing some of the legislators. The semantics involved in
the words "freemen" versus "citizens" could cause serious limitations
on legislatures to cope with Negroes should their number increase
sufficiently.
We see in the Fifth and Sixth Amendments--

-- Fifth Amendment: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

-- Sixth Amendment: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

40

to the Constitution and the author's insistence that both Amendments were founded on principles of common law and common justice.

Mott's further explanation of due process is:

"If a man's property should be arbitrarily taken the fact would alarm his fellow citizens and they would be prepared to resist. But to arrest a man is an act which, being hidden, makes less sensation and for that cause becomes more dangerous to public liberty. The Constitution has wisely provided that no person shall be deprived of his life, liberty, or property without due process of law." 41

It is interesting to note that Mott cites James Adams' reasoning in 1797

"...that it was not enough that the laws be uniform, for they appear to apply equally to all and yet be unjust." 42
Mott questions whether due process sought to limit the power of
the executive and the legislative or both or neither.

In keeping with points discussed later in this paper, Mott cites
the case of *Ham v. McClaws* and *Wife*:

"Statutes passed against the plain and obvious
principles of common right and common reason
are absolutely null and void, as far as they
are calculated to operate against those
principles." 43

There existed in American law the doctrine of vested rights which
meant that once a right had been granted, the right could not be taken
away by subsequent legislation.

A further interpretation of the due process provision satisfied
those who wished to see the weak protected against the tyrannical
actions of the government.

Mott states that

"By law of the land is clearly intended the
general law; a law which hears before it
condemns; which proceeds upon inquiry and
renders judgment only after trial. The meaning
is, that every citizen shall hold his life,
liberty, property, and immunities under the
protection of the general laws which govern
society." 44

It was interesting that Mott cited the fact that since the middle
of the seventeenth century

"...no one can doubt that due process does not
require a jury trial if one would be
inappropriate." 45
The Supreme Court stated that states could abolish this form of procedure entirely and still not violate the Fourteenth Amendment. No state has seen fit to abolish trials by jury. Mott clearly emphasizes that due process is not necessarily judicial. 46

It is fitting to our purposes here that

"...substantial rights of property could not be impaired without an opportunity being given to the defendant to present his case."47

The notice and hearing doctrine was used by the courts in their effort to soften the harsher effects of due process as a limitation on legislative power. Yet, this doctrine could not be applied even in these cases. There are certain types of determinations in which a notice or hearing, or even both, may be dispensed with entirely.

Due process does not guarantee a right to appeal to a higher court. Yet an appeal on the question or constitutionality of either procedure or result must always be permitted when fundamental rights are violated. 49

The Murray v. Hoboken Land and Improvement Company 50 decision formed the basis for the enormous judicial expansion of due process after the adoption of the Fourteenth Amendment. Upon its authority the federal courts definitely recognized the state rule that the principles of the common law are to be considered the acid test of what procedure was and was not due process of law and because of this recognition the way was paved for the application of the phrase to the new conditions of life and legislation in the last part of the nineteenth century and the first part of the twentieth.
"...by recognizing the common law as the final authority in due process cases the courts were provided with... the means by which that concept could be infinitely extended to cover not only procedural cases but those involving the police power and taxation as well."

In the 1880s, the Supreme Court sought to regain its position as the true supervisor of legislation. Mott states that

"...the keynote of the new procedure was struck in Hurtado v. California in which the Court declared that an indictment need not be by grand jury if the protection given the accused is substantially that same as the old common law method." 52

We see that the Court at this time is awakening to the need for scrutinizing the elements of the law with regard to social policy.

Mott feels that the principles of common law and those of social organization are so closely related that a frank recognition of the relation between common law and "the blessings of justice and liberty" could only have the most salutary effect upon legal thought. 53

Mott says the principle of equality seems to have been taken for granted.

"Due process first meant process in a regular court of justice. It was extended to include a limitation of the legislature as well as the executive or judicial." 54

It was interesting to note that the Court reasoned that

"...since due process required judicial process, the legislature could not render a judgment which would satisfy its requirements." 55
Due process of law was very closely related to the doctrine of natural rights. Toward the end of the nineteenth century a number of judges declared...that due process guaranteed equal and impartial justice and this was accomplished only when laws operated on all alike.

Closely connected with the due process provision is the equality provision. Resulting from this distinction was the judgment that the equal protection phrase was not inserted to limit congressional action. The justices declared that no one had a vested interest in any rule of law.

Police power was a term first used by Chief Justice Marshall. It is the power vested in the legislature by the Constitution to make, ordain and establish either with penalties or without, not repugnant to the Constitution laws for the good of the Commonwealth. 56

Mott states that

"...the tendency of the courts now is to narrow the concept to the power inherent in a government to enact laws within constitutional limits, to promote the order, safety, health, morals and general welfare of society." 57

Due process was a substantive limitation on the police power.

Yet, mention is made of Chief Justice Roger Tanney who

"adopted the conception of due process as a limitation upon the police power of the state, by identifying slaves with other property." 58

He stated:

"An act of Congress which deprives a citizen of the United States of his liberty or property,
merely because he came himself or brought his property into a particular territory of the United States, and who committed no offense against the laws, could hardly be dignified with the name of due process of law."59

Mott mentions the element of reasonableness as a criterion in police power cases. If there appeared to be only a slight interference with private rights, the law would be upheld even though the corresponding benefit were small.

There has to be a consideration of the public benefit in due process cases. Some courts have felt the necessity of some such limitation—the consideration of the public benefit—as being extremely significant in demonstrating the close relationship between due process of law and the desire of the courts to protect private rights from unreasonable and tyrannical governmental action.

Due process of law is extremely important when we are considering the reasonable and the arbitrary.

Mott stresses the aspect of the taxing power and states that

"There is probably no portion of public law in which so many serious conflicts of opinion are to be found as that which involves the validity of expenditures for alleged governmental purposes. With the tax dollars the government has been able to assist such charitable functions as the care of the insane, the sick, or paupers. If the evidence is clear that the public is protected in any reasonable manner, and if there are no particular provisions in the state Constitution to prevent it, the taxing power may be used to aid charitable institutions."60
A tax must be a fortiori for a public purpose. In cases of social legislation, the law must be directly related to the concepts of health or morals in order to satisfy due process. There must be a reasonable balance between the degree of interference with private rights and the public benefit which is expected to flow from that interference. Oliver Wendell Holmes stated:

"It may be said in a general way that the police power extends to all the great public needs...to be put forth in aid of what is...immediately necessary to the public welfare."61

Mott states that

"...the court missed the cardinal point, that the police power could be used to regulate, or even destroy, those occupations or professions which were subject to enough abuse to make their conduct dangerous to the public welfare."62

Several alternatives are available in submitting evidence to the court against an act which is considered unconstitutional, or in favor of one which it is hoped will be upheld. One area which is of interest to us in this present work is the fact that the courts have always treated medical evidence as of prime importance. Again, the evidence of public opinion is important to due process cases. It was not until 1903, however, that the Court stated it would give public opinion very considerable weight in determining the legitimacy of the legislative object.
Finally, we must ascertain in due process cases if the courts are following well recognized principles of law in their decisions or are they acting capriciously. Mott concludes that

"...it is important to remember that this provision is primarily a guarantee of legality itself...the fundamental, inherent form which is based upon tested principles of constitutional government." 63

Corwin summarizes our concern with due process by stating,

"So the word 'liberty' of the Fourteenth Amendment became at least a judicially construable term in limitation of state legislative power; at first in the restricted sense of 'freedom of contract.'"

"Liberty, in a word, became assimilated to property--investment capital--about which was thus cast an immunity far surpassing in scope any that had ever been dreamed of in...the philosophy of vested rights." 64
PART III
The Medical Aspects of "Addiction"

"Addiction" comes from the Latin word "addictus," meaning "given over, one awarded to another as a slave." According to Margaret Hyde in her book, Addictions: Gambling, Smoking, Cocaine Use, and Others, addiction is a term used in connection with "habits, both good and bad." Mrs. Hyde used the Oxford English Dictionary to further define addiction as

"...a state of being...given to a habit or pursuit; devotion."65

My concern in this work is with one very specific addiction: compulsive gambling. What is it, what causes it; how it differs from other addictions; the treatment for it; the measured success rate for overcoming this malady; the way the law views this particular addiction; the punishment for it; and the reasonableness of handling compulsive gambling in this manner in an effort to eradicate this 'offense.'"

Lindsmith in his book, The Addict and the Law,66 used the basis of the drug problem in the United States as his treatment of the subject on addiction. This addiction was initially handled administratively in the U.S. by the Treasury officials.

The author cites the Harrison Act of 1914 as the basic antinarcotics statute in the country. Passed as a revenue measure, the Act made no mention of addicts or addiction. The purpose of the
Act was to make the process of drug distribution in this country a matter of record.

The Act provided that

"Nothing contained in this section shall apply (a) to the dispensing or distribution of any of the aforesaid drugs to a patient by a physician, dentist or veterinary surgeon registered under this Act in the course of his professional practice only." 67

In 1915, in *U.S. v. Jin Fuey Moy*, the Supreme Court took the first step in outlawing the addict. In its decision it stated:

"Possession of drugs by unregistered persons was to create a presumption of guilt." 68

The defense had contended that it referred only to persons required to register and not to all persons. By making possession of illegal drugs a crime for anyone, the Court's decision had the effect of

"...creating an entire class of criminals with the stroke of a pen."

The Court ruled that a doctor could not legitimately prescribe drugs

"...to cater to the appetite or to satisfy the craving of one addicted to the use of the drug." 69

In a later case, the *Webb* decision, the Court ruled that

"...a prescription of drugs for an addict not in the course of professional treatment in the
attempted cure of the habit, but being issued
for the purpose of providing the user with
morphine sufficient to keep him comfortable by
maintaining his customary use was not allowed." 70

The 1922 Behrman case gave further support to the idea that
it was not legitimate for a physician to prescribe drugs for an
addict, for in its decision the Court ruled

"...that such prescriptions were illegal
regardless of the purpose the doctor may have
had." 71

Addiction was not viewed as a disease or an illness; rather it was
seen as a willful indulgence meriting punishment rather than medical
treatment.

The famous Linder case of 1925 involved a Seattle practitioner who
provided only four tablets of drugs for one addict to be used at her
discretion. As it turned out, the "patient" was an "informer."
Dr. Linder was charged with criminal violation of the law.

Reiterating that the Harrison Law was a revenue measure, the Court
added the following important statement:

"It [the Act] says nothing of 'addicts' and
does not undertake to prescribe methods of
treatment for their medical treatment. They
are diseased and proper subjects for such
treatment, and we cannot possibly conclude that
a physician acted improperly or unwisely or for
other than medical purposes solely because he
has dispensed to one of them, in the ordinary
course and in good faith, four small tablets of
morphine or cocaine for relief of conditions
incident to addiction. What constitutes bona
fide medical practice must determined upon
consideration of evidence and attending
circumstances." 72
The Court commented on the Webb case, the interpretation of which it did not accept, saying that

"...the rule therein formulated...must not be construed as forbidding every prescription for drugs, irrespective of quantity, when designed temporarily to alleviate an addict's pains, although it may have been issued in good faith and without design to defeat the revenues."

Of the Behrman decision, the Court similarly warned:

"The opinion cannot be accepted as authority for holding that a physician who acts bona fide and according to fair medical standards may never give an addict moderate amounts of drugs for self-administration in order to relieve conditions incident to addiction. Enforcement of the tax demands no such drastic rule, and if it [the Act] had such scope it would certainly encounter grave constitutional difficulties."74

It appeared that in the Behrman decision the Court had begun to view "addiction" as a "disease" and had begun to hold that

"...a physician acting in good faith and according to fair medical standards may give an addict moderate amounts of drugs to relieve withdrawal distress without necessarily violating the law."75

Prior to the 1914 Harrison Act, two influences which caused federal narcotic legislation to be enacted were:

(1) In 1912, American representatives at the Hague Convention urged other world governments to enact their own laws by which their countries were protected against narcotic drug abuse; and

(2) There was a growing realization in the U.S. that the numbers of addicts were
increasing and the measures enacted to curb the drug problems were not being effectively met by current legislation.  

Lindesmith concludes that,

"If this opinion is correct, the conclusion is inescapable that the present punitive system of dealing with addicts and the Treasury Department regulations on which it is based are in direct violation of federal law and based upon an unconstitutional interpretation of the Harrison Act."  

Lindesmith cites a similar situation in Great Britain. A report entitled the Dangerous Drugs Law of 1920 which was published in 1926 was very similar to the Harrison Act except that it was not a tax measure. The report was the result of the proceedings of the Rolleston Committee.

In essence what the proceedings contained was the testimony of medical men who had expertise in dealing with the subject of drug addiction. The Committee reported that

"...doctors might prescribe drugs regularly for addicts and specified the conditions under which this might be done."  

In the United States, however, the situation was different. The only use made of a physician's expertise in such cases was to call a doctor to provide expert testimony. After the prosecution and the defense had rested their cases, the jury, after deliberation, rendered its verdict. Lindesmith comments,
"This makes a jury of laymen the arbiters of a technical medical dispute and in practice means that the courts intervene in a medical controversy on the side of the faction which supports the government's enforcement program, by subjecting others to criminal trial. Unfortunately, the Linder case has had practically no effect and remains a ceremonial gesture of no practical significance for either addicts or physicians." 79

Yet, in 1962, in Robinson v. California, the Supreme Court was seen as changing its attitude toward addiction. The case involved a test of a California statute making it a crime to be "addicted to the use of narcotics." The case provided a punishment of "at least ninety days in confinement in a country jail."

The Supreme Court ruled the California statute was unconstitutional and that it violated the Eighth and Fourteenth Amendments because it prescribed cruel and unusual punishment.

Lindesmith quotes the following remark:

"To be sure, imprisonment for ninety days is not, in the abstract, a punishment which is either cruel or unusual. But the question cannot be considered in the abstract. Even one day in prison would be cruel and unusual punishment for the 'crime' of having a common cold." 80

Lindesmith cites the fact that there was a great apathy in both the legal and medical professions for the addict. This was due to a combination of factors:

(1) the fact that the addict has a low social status; (2) the lack of money that he has; and (3) the fact that he is often a public
nusiance and difficult to help even if a person wanted to become involved with him. \(^8^1\)

The Supreme Court ruling on the California statute cites a clear violation of the Eighth and Fourteenth Amendments of the U.S. Constitution: \(^8^2\)

The Eighth Amendment states:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." \(^8^3\)

The Uniform Narcotics Act of 1927-32 was enacted to facilitate enforcement by promoting cooperation between federal and nonfederal officers; it also caused the creation of uniform standards of record-keeping on state and federal levels.

Lindesmith shows the changing sociological attitudes in calling narcotics offenses "victimless" crimes, although he does not use that specific term. He cites illegalities employed by the police in attempting to obtain information from addict-informers: Informers are, in many cases, given narcotics to lead police to the source of their supply; in many cases, illegal and unlawful arrests of addicts are made in an attempt to demonstrate the effectiveness of police departments in handling this problem.
However, Lindesmith describes the period of detention as "murder on the installment plan" because the period of incarceration is not ordinarily long enough for withdrawal to be complete. Therefore, there is no expectation that the released addict will be able, in that short period of time, to overcome his habit. Usually there is an immediate relapse and, hence, additional imprisonment. Lindesmith states

"Repeated partial withdrawals of this sort in police lockups without medical attention are bound to have devastating effects upon the users' health and morals."84

Lindesmith cites some similarities between narcotics trafficking and gambling: It is often operated on an international scale; it has professional criminals; they have a great deal of money; they have influential friends; they are sufficiently knowledgeable in methods employed to elude the law; the "criminals" cited in gambling are not the addicts themselves; the bookmakers will not accept credit—they deal only in cash; they are not visible to the public because they have others run their errands. Lindesmith states:

"In short, they operate behind a shield of henchmen."85

Lindesmith suggests that the arrests which were made were motivated by political and publicity considerations. He states that by incarcerating drug addicts they are prevented from stealing and from spreading the habit. He also cites police corruption and the relative ineffectiveness of police tactics saying they don't reach those they
should. It is the addict who continues to need illicit drugs; by
taking him out of circulation, he may be (a) cured of his craving; (b)
locked up in jails or rehabilitation centers where drug peddlers
cannot reach him; (c) provide him with access to legal drugs.

Earlier in my work I mentioned the name of Margaret Hyde and her
definition of "gambling." She continues to further define it by
using the word "tolerance" in connection with addiction. Tolerance is

"...the need for increasing amounts of a
substance to produce the same effect on the
body with regular use."

Mrs. Hyde continues:

"In addition to a tendency to increase the dose
because of tolerance, another hallmark of
addiction is a compulsive need to continue to
take the drug or indulge in the habit.... When
the word 'compulsive' is applied to negative
behavioral patterns, it means that they are
characterized by the continual commitment of an
act that violates a person's standards...a
compulsive gambler will continue no matter what
the risk. For this person gambling has become
so irresistible that it asserts itself before
family needs and family safety."86

Yet, Mrs. Hyde makes an interesting observation:

"Much controversy exists about whether certain
addictions should be considered diseases or
characteristic behaviors that a person uses to
deal with the problems in his or her life."

Mrs. Hyde poses yet another question:

"Can gambling be an addiction?"87

She gives the statistic that
"...experts believe there are between 4 and 10 million people in the United States whose lives are dominated by gambling. These people develop a craving for the pleasurable yet painful tension that accompanies the uncertainty of winning or losing."88

Other adjectives used to describe the actions of the compulsive gambler are "self-destructive," "loner," "helpless," and "inadequate."

Compulsive gambling has been described as the response to anxiety. The compulsive gambler continues to ask:

"Is Lady Luck with me?"

Since the question can never be answered to his satisfaction through gambling, the gambler continues to pose the question until all funds are depleted. Experts say that release can be found only by losing.

Another theory Mrs. Hyde cites is that

"...compulsive gambling is described as a phase of a high or manic, reaction; the stage at which all money has been lost is the painful low or depression, afterward." 89

Yet, another theory states that the compulsive gambler subconsciously wants to lose in order to be punished for thoughts about sex and parents. The act of gambling becomes an outlet for stress and the enjoyment of risk-taking becomes more important than winning or losing money."

There is a certain element of enjoyment in compulsive gambling. Mrs. Hyde contends that
"...not only is a permanent cure questionable, but many problem gamblers who claim they want to stop would not accept therapy even if it were available.... They are reluctant to give up the pleasurable feelings." 90

Mrs. Hyde cites studies by Dr. Thomas Martinez 91 in his research on compulsive gambling. He examines five major conscious moods that a person undergoes in becoming a compulsive gambler:

1. The first mood is risk taking. This is considered the essence of compulsive gambling.

2. The second mood, called "here and now," allows the gambler to concentrate his full attention to the matter of gambling and to eliminate all other concerns.

3. A third mood is the freedom for the gambler to fantasize.

4. The fourth mood mentioned by Professor Martinez is the euphoria—the high—the gambler experiences from the time he places his bet to the time he hears the result. It is this state plus fantasy that must occur for a person to pass from an occasional to a compulsive gambler.

5. The last conscious mood Mrs. Hyde mentions is Professor Martinez's term of "mysticism." Here the gambler feels omnipotent. Here money becomes most valuable to keep the gambler in the action. Here he will stay until all the money is gone.

If the subject just described is a compulsive gambler, he is also a compulsive worker, needing money to continue in his habit. The
portrayal of the compulsive gambler as a lazy person who tries to live life doing as little as possible is erroneous.

Mrs. Hyde continues:

"Quitting while ahead is almost always impossible for the compulsive gambler, so it is obvious that such a gambler is a loser... gambling continues until the person hits rock bottom--a state which Professor Martinez characterizes as one in which one of the following conditions is present: loss of job, loss of family, prison sentence from bad checks, and a suicidal personality."92

The preferred method of treatment is attendance at Gamblers' Anonymous. Not even sessions with a private psychiatrist or psychologist would suffice. At Gamblers' Anonymous, the gamblers develop a sense of brotherhood in the confession of their failings and relapses. It is necessary for them to reinforce the good intentions of the other GA members to continue to guard against relapses into their addiction. 93

The causes of compulsive gambling:

The causes of compulsive gambling behavior have ranged from Freud's concept of early life excessive concern with anality to a study of individuals suffering from depression caused by anxiety, loss of self-esteem, moodiness, sense of failure, recourse to "Lady Luck" at the gaming tables and a variety of other possibilities, including loss of homeland. They tried to counteract these feelings of loss by having recourse to "Lady Luck" yet in their actions they did not lose
the freedom to act. They maintained their rational element; it is their volition that is impaired.

Neurotransmitters

Solomon Snyder wrote an article in the March 1977 issue of the Scientific American entitled "Opiate Receptors and Internal Opiates." He relates the following information.

In 1680 a British physician, Thomas Sydenham wrote:

"Among the remedies which it has pleased Almighty God to give man to relieve his suffering, none is so universal and so efficacious as opium."

The word "opium" comes from the Greek word "Opion" meaning "poppy juice." The substance has been used as a drug to deaden pain and to cause euphoria. The reason for Snyder's present article was to relate a finding which was new in medial circles. Natural morphine-like substances have been found in the brain. This was a startling discovery.

As far back as 1803 Friedrich Sterturner made the substance morphine. It was termed as such after Morpheus, the Greek god of dreams.

Pharmacologists had long assumed that specific opiate receptors existed in the brain and possibly in the spinal column. Opiates will bind to almost any biological or nonbiological membrane. Avram Goldstein and his colleagues at Stanford attempted to differentiate
between specific and nonspecific binding of opiates to brain cells by applying the criterion of sterospecificity. Goldstein found that only 2% of the total binding of opiates to brain cell membrane in this test was sterospecific.

With radioactively labelled naloxone, a potent opiate antagonist, the authors were able to identify high-affinity binding sites for opiates in fragments of cell membrane from rat brain and and guinea-pig intestine. The authors compared the ability of the active and inactive isomers of the opiates to compete with radioactively labeled molecules of naloxone for binding to the receptor. Stereospecific binding alone is not sufficient to establish an association between an opiate and a receptor.

Horace H. Loe of the University of California School of Medicine found that a major class of brain lipids (fatty substances) can discriminate between the optical isomers of opiates.

Ian Cruse measured the ability of different opiates to inhibit contraction of guinea pig intestine and compared it with their ability to inhibit naloxone binding to the same tissue. He found that the receptor affinity and pharmacological potencies correlated remarkably well for both agonists and antagonists in guinea-pig intestine, suggesting that the stereospecific binding site was indeed an authentic receptor.

Yet, the issue remained a mystery, for, in the binding experiments antagonists and their corresponding agonists appeared to have the same affinity for the receptor; but it is well known that in living organisms antagonists are much more potent than opiate
agonists. Yet, the experiments lacked any ions found in the body, particularly sodium ions. Concentrations of sodium found normally in the body enhanced the binding of opiates antagonists and greatly diminished the binding of opiates agonists. Lithium mimicked the effects of sodium. The selective effect of sodium on opiate-receptor binding appears to be an integral feature of receptor function.

Clearly man was not made with morphine inside him. The existence of specific opiate receptor sites strongly indicated the presence of a natural morphine-like substance in the brain, possibly a neurotransmitter. Opiates are thought to act at synapses in the brain where the nerve fiber makes a junction with the outer membrane of another nerve cell and chemically moderates its activity.

Hughes and Kosterlitz isolated the morphine-like factor from the brain of pigs. They found it contained two closely related short peptides, both made up of five amino acid units. They named them "enkephalin" which means "two peptides." The word is taken from the Greek word for "one head." Evidence indicates that the enkephalins are neurotransmitters of specific neuronal systems in the brain that mediate the integration of sensory information having to do with pain and emotional behavior. Enkephalins appear to be localized in nerve endings hence they may be considered neurotransmitters.

Neurotransmitters are conventionally thought to bind to receptors on the membrane of the receiving neuron and then to trigger some alteration of the membrane's properties. In the resting state the membrane is electrically polarized: the outside is positive with respect to the inside. Most excitatory transmitters such as ACTH and
glutamate, facilitate the firing of the receiving neurons by producing a depolarizing flow of positively charged sodium ions across the cell membrane. Inhibition is caused by a reduction in the polarizing flow of sodium across the membrane.

Enkephalin released at such synapses would bind to the opiate receptors on the excitatory nerve terminal increasing the conductance of sodium across the membrane of the terminal and partially depolarizing it. When a nerve impulse reached the terminal, the net depolarization generated by it would be reduced; there would be a corresponding decrease in the amount of excitatory transmitter released. Although here the action of enkephalin would itself be excitatory, increasing the flow of sodium across the nerve-terminal membrane, the ultimate effect on the cell receiving the excitatory nerve terminals would be inhibitory, since the amount of excitatory transmitter influencing its activity would be reduced.

In recent years it was discovered that the enkephalins are not the only natural opiate-like peptides. Goldstein showed that the pituitary gland at the base of the brain, which is embryonically and structurally distinct from the nervous system, contains a factor with opiate-like effects. This finding became intriguing when Hughes and Kosterlitz noticed a curious connection: the amino acid sequence of methionine-enkephalin matched a segment of the pituitary peptide hormone beta-lipotropin, which is associated with the breakdown of fat.

Li of the University of California School of Medicine in San Francisco, had previously isolated from the pituitary gland of the camel a fragment of beta-lipotropin, 31 amino acids long, whose
function was a mystery: Li's peptide had opiate-like effects. He named his peptide beta-endorphin for endogenous morphine. It had a high degree of analgesic activity.

What are the relations among beta endorphins and enkephalins? Biologically active peptides are usually synthesized by being cleaved from larger peptides. Perhaps, beta-lipotropin is a precursor of enkephalin in the brain. Yet, beta-endorphin can be detected in the brain tissue only in low amounts and beta-lipotropin has never been reported in the brain. It is thought that the larger peptides such as beta endorphins play the major role in the pituitary gland. Since the analgesic and euphoric effects of opiates are mediated only in the brain and the spinal cord it seems likely that the analgesic actions of endorphins are fortuitous and unrelated to their normal functions.

With components analogous to enkephalins that resist metabolic breakdown it has been possible to show that enkephalins have an analgesic potency similar to that of morphine. The fact that enkaphlins can produce analgesia suggests that appropriate analogues might be the long-sought nonaddictive analgesics.
Proposed Treatment Methods for Addiction

In 1980, an article appeared in the International Journal of Addictions in which techniques of therapy used for treatment of compulsive gambling were discussed and the success rate compared. One course of treatment was described by Dr. Salzmann in which he detailed a technique tried in which the patient was given an intramuscular injection of 3 milligrams of apomorphine and then asked to imagine he had 20 to 30 pounds with which to gamble and was asked to pick from the racing form the horses he would choose to back. Acute nausea developed by the time he had made his last selection. Treatment was given once or twice a week to a maximum of six weeks on an "in-patient" basis. This course of treatment attempted to extinguish the element of pleasurable and to impress on the patient that his gambling is a "sick habit." The results were encouraging; yet, Dr. Salzmann would not claim his patient was cured.

Another form of behavior therapy reported for compulsive gambling has been aversion therapy in which gambling behaviors have been paired with electric shock. The behavior shocked depends on the preferred method of gambling. The shocks are usually administered by a behavior therapist. Aversion therapy can curtail gambling behavior in a shorter period of time than other treatment techniques; yet, to achieve long-term results, the gambler must be taught to satisfy his needs in other, more adaptive ways such as attendance at Gamblers' Anonymous with their spouses.
In yet another study, in 1980, Nathaniel McConaghy\textsuperscript{96} reported that there was a marked resemblance of the subjective experience and autonomic concomitants of anxiety to those of a startled, orienting or arousal response. The authors concluded that persistent anxiety could be regarded as a prolonged equivalent of the arousal response. Persistent anxiety could be due to prolonged, increased activity of the reticular arousal system.

The next course of therapy reported in an attempt to control compulsive gambling was the use of lithium carbonate. It has been used successfully in affective disorders. The similarity in the thrill response associated with experiences at gambling was demonstrated in the case of a 45-year-old married taxi driver who, on presentation at the physician's office was willing to consider that his compulsive gambling might be a phenomenon of mental illness, a variant of manic-depressive disease and would accept a trial of lithium carbonate, 600 mg. orally, three times a day, on an outpatient basis. He complained initially that he had lost interest in his previous enjoyments of the horses. Finally, he admitted that the "thrill" was gone.

The last course of treatment and one which I mentioned earlier in my work is attendance at Gamblers' Anonymous. This is an organization, founded in 1957, "of voluntary fellowship of compulsive gamblers gathered for the sole purpose of helping themselves and each other to stop gambling." The members meet regularly, give each other emotional support, and help each other to work through the steps of
Compulsive Gambling, a series of acknowledgments and resolutions by the compulsive gambler.

These twenty signs are as follows:

(1) Do you lose time from work because of gambling?
(2) Is gambling making your home life unhappy?
(3) Is gambling affecting your reputation?
(4) Have you ever felt remorse after gambling?
(5) Do you ever gamble to get money with which to pay debts or to otherwise solve financial difficulties?
(6) Does gambling ever cause a decrease in your ambition or efficiency?
(7) After losing, do you have a strong urge to return to win more?
(8) After you win, do you have a strong urge to return to win more?
(9) Do you often gamble until your last dollar is gone?
(10) Do you ever borrow to finance your gambling?
(11) Have you ever sold any real or personal property to finance gambling?
(12) Are you reluctant to use "gambling money" for normal expenditures?
(13) Does gambling make you careless of the welfare of your family?
(14) Do you ever gamble longer than you have planned?
(15) Do you ever gamble to escape sorrow and trouble?
(16) Have you ever committed or considered committing an illegal act to finance gambling?
(17) Does gambling cause you to have difficulty in sleeping?
(18) Do arguments, disappointments, or frustrations cause you to gamble?
PART V
(19) Do you have an urge to celebrate any good fortune by a few hours of gambling?

(20) Have you ever considered self-destruction as a result of your gambling?

In 1981, the American Psychiatric Association's *Diagnostic and Statistical Manual* (DSM III) listed the Diagnostic Criteria for Pathological Gambling as follows:

(a) The individual is chronically and progressively unable to resist impulses to gamble.

(b) Gambling compromises, disrupts, or damages family, personal, and vocational pursuits, as indicated by at least three of the following:

(1) arrest for forgery, fraud, embezzlement, or tax evasion due to attempts to obtain money for gambling.

(2) default on debts or other financial responsibilities.

(3) disrupted family and/or spouse relationship due to gambling.

(4) borrowing of money from illegal sources (loan sharks)

(5) inability to account for loss of money or to produce evidence of winning money, if this is claimed.

(6) loss of work due to absenteeism in order to pursue gambling activity.

(7) necessity for another person to provide money to relieve a desperate financial situation. 98
Available Information on Compulsive Gambling

Following is an enumeration of efforts to obtain information from various sources on the subject: compulsive gambling:

The National Library of Medicine provided a complete literature search on Compulsive Gambling.

Additional information on the subject was unavailable from the National Institute of Mental Health (NIMH) Bethesda, MD.

The Information Office of the National Institute on Alcoholism and Drug Abuse (NIADA) provided a more current search. From that search a request for more information was sent to Mr. Chuck Hardwick, an Assemblyman in New Jersey. The correspondence from Mr. Hardwick is contained in the Appendix to this thesis. Essentially, what Mr. Hardwick proposes is that all lottery tickets carry a warning similar to packages of cigarettes that the purchaser might have a gambling "problem." The purchaser is directed to the National Council on Compulsive Gambling. Additionally, Mr. Hardwick proposes that since, in its attempts to raise additional revenue for the State of New Jersey through legalization of gambling, a segment of the population may possibly be harmed by this measure, it is the gambling casinos that should be taxed and the proceeds from the tax be used to help the compulsive gambler.

Six meetings of the Fairfax Chapter of the Gamblers Anonymous of the State of Virginia revealed that this organization is a fellowship composed of reformed compulsive gamblers whose only desire in attending GA is to help other compulsive gamblers to a state of mental health. There is a spirit of willingness to help one another to come to grips with the problem of compulsive gambling. The spouses enumerate week after week their attempts to help their husbands to recognize their affliction.
The meeting with Dr. Robert Custer, a forensic psychiatrist with the Veterans' Administration in Washington, D.C., to discuss his work with compulsive gamblers; he has written articles and a book on the subject. These proved to be extremely helpful.

Professor David McCarthy of the Georgetown University Law School suggested investigating the concept of "punishment" with regard to compulsive gambling. His suggestion was in response to the question "Why should a person be punished for an illness?"

A visit to the Georgetown University Law Library to check the Corpus Juris Secundum, "the collected law which makes available in a more efficient and more complete presentation of the entire body of the law as it now exists in the many thousands of volumes of reported cases," proved to be helpful and informative.

The CJS has a listing for "addict" used as a noun meaning "a person who has acquired the habit of using spirituous liquors or narcotics to such an extent as to deprive him of reasonable self-control."

When the CJS uses the word "addict" as a verb, it is defined as

"To apply oneself habitually; to devote; to habituate."

Under the various subheadings, there is no listing for "illness" or "compulsion."

A request to the Waxman Subcommittee on Health to send any material it might have on the problem of compulsive gambling proved helpful.
"Crime" and How it Should be Punished

Crimes are acts that violate the criminal laws of a nation. They may be acts of omission—failure to obey laws or acts of commission, that is, acts that are opposed to laws.

Crimes are not all of one type. The Federal Bureau of Investigation has outlined the design of criminal behavior by bringing crimes into a classification of twenty-seven types. The first seven crimes, ranging from murder through automobile theft, are considered serious and carry severe penalties. The remaining twenty offenses are less serious but include various vices regarded as public offenses.

It is interesting that gambling is among the crimes "specifically of the elderly." Gambling is considered a crime of "personal deterioration."

Syndicates have acquired control of many gambling devices. Yet, Cavan feels that

"even when the gambling game is operated honestly the person who gambles has little chance to win."

While gambling is widespread throughout the United States, certain gambling habits are concentrated in low-income areas of cities. Gambling ... covers a wide variety of activities: lotteries, roulette, policy games, betting on races or sports, card games, slot and pinball machines, and many variations of each of these. Gambling is condemned in the United States. This is a
paragraph from a book entitled Criminology. The author continues to define gambling by saying that it is

"condemned not only on moral grounds but because it readily becomes a social evil when not controlled, with many people in marginal circumstances steadily losing needed money in the vain hope of gaining great wealth."102

Gambling is classed as a "deviant behavior in unadjusted persons." The book was published in 1962. Since that time many changes have occurred in the laws of gambling law enforcement in the United States.

Cavan defines "gambling" as

"...includ[ing] offenses of promoting, permitting, or engaging in gambling."103

In Gambling Law Enforcement in Major American Cities, a publication of the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration of the U.S. Department of Justice:

"Since 1963, 13 states have begun to run state lotteries, 2 states have set up jai alai arenas and Atlantic City is about to go into the casino business."104

The publication stresses an important point—the concern some people have about the law's regulation of "essentially private moral decisions."

The third point raised is the trend in American society to try to deal more harshly with serious or repeat criminal offenders.
Because there is a high level of tolerance for certain vice activities, gambling laws are seen as hard to enforce. It is the states and not the federal government which have the power to determine who shall gamble, on what types of games, where, when, and with whom.

We learn that there are 16 states in which no form of gambling is legal. I have included ten Tables from the publication. The Tables indicate those forms of gambling which are legal in some states and the number of states in which they are legal; the penalties for illegal gambling, socioeconomic factors involved, and the police and citizen perceptions of gambling law enforcement.

We learn the types of prohibitions with regard to gambling in the United States are:

(a) Commercial gambling—profiting from an illegal gambling business—has always been banned.

(b) Gambling in public was almost always banned.

(c) Private social gambling was illegal in nine of the 14 states included in the sample.
PART VI
Table 1 105

Availability of Legal Gambling*

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<th>Type of Legal Gambling</th>
<th>Number of States** Where Legal</th>
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</thead>
<tbody>
<tr>
<td>State Lotteries</td>
<td>12</td>
</tr>
<tr>
<td>Off-track Betting on Horses</td>
<td>1</td>
</tr>
<tr>
<td>On-track Betting on Horses</td>
<td>29</td>
</tr>
<tr>
<td>On-track Betting on Dogs</td>
<td>8</td>
</tr>
<tr>
<td>Jai Alai</td>
<td>3</td>
</tr>
<tr>
<td>Legal Card Room</td>
<td>2</td>
</tr>
<tr>
<td>Casino Gambling</td>
<td>1</td>
</tr>
</tbody>
</table>


** Nevada is excluded from this table.
<table>
<thead>
<tr>
<th>Type of Legal Gambling</th>
<th>Number of States Where Prohibited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social gambling in private</td>
<td>9</td>
</tr>
<tr>
<td>Placing a bet with a bookmaker or buying a number</td>
<td>8</td>
</tr>
<tr>
<td>Taking a bet or selling a number</td>
<td>13</td>
</tr>
<tr>
<td>Public gambling</td>
<td>12</td>
</tr>
<tr>
<td>Running a commercial card or dice game</td>
<td>13</td>
</tr>
</tbody>
</table>
Table 3.07
Penalties for Illegal Gambling - Thirteen Sample States

<table>
<thead>
<tr>
<th>Prohibition and Penalties</th>
<th>Cards and Dice</th>
<th>Lottery</th>
<th>Bookmaking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Playing Cards, Dice or Placing Bet:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of States where playing is prohibited</td>
<td>9*</td>
<td>5</td>
<td>8</td>
</tr>
</tbody>
</table>

Maximum Penalty 1st Offense:

<table>
<thead>
<tr>
<th></th>
<th>Range of Fines</th>
<th>Median Fine Prescribed</th>
<th>Range of Jail</th>
<th>Median Jail Term Prescribed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Playing Cards, Dice or Placing Bet:</td>
<td>$100-$1,000</td>
<td>$200-$5,000</td>
<td>$200-$5,000</td>
<td></td>
</tr>
<tr>
<td>Median Fine Prescribed</td>
<td>$200</td>
<td>$500</td>
<td>$1,000</td>
<td></td>
</tr>
<tr>
<td>Range of Jail</td>
<td>0-3 yrs</td>
<td>0-3 yrs</td>
<td>0-5 yrs</td>
<td></td>
</tr>
<tr>
<td>Median Jail Term Prescribed</td>
<td>6 months</td>
<td>1 year</td>
<td>1 year</td>
<td></td>
</tr>
</tbody>
</table>

Running a Gambling Game:

<table>
<thead>
<tr>
<th></th>
<th>Range of Fines</th>
<th>Median Fine Prescribed</th>
<th>Range of Jail</th>
<th>Median Jail Term Prescribed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of States where Running a Gambling Game is a Felony</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>5</td>
<td>7</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Maximum Penalty 1st Offense:

<table>
<thead>
<tr>
<th></th>
<th>Range of Fines</th>
<th>Median Fine Prescribed</th>
<th>Range of Jail</th>
<th>Median Jail Term Prescribed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Running a Gambling Game:</td>
<td>$300-$5,000</td>
<td>$500-$5,000</td>
<td>$500-$5,000</td>
<td></td>
</tr>
<tr>
<td>Median Fine Prescribed</td>
<td>$1,000</td>
<td>$2,500</td>
<td>$5,000</td>
<td></td>
</tr>
<tr>
<td>Range of Jail</td>
<td>0-10 yrs</td>
<td>1-10 yrs</td>
<td>0-10 yrs</td>
<td></td>
</tr>
<tr>
<td>Median Jail Term Prescribed</td>
<td>1 year</td>
<td>5 years</td>
<td>5 years</td>
<td></td>
</tr>
</tbody>
</table>

* As noted above, 12 states prohibited playing cards in public.
Table 4
Influence of Seven Economic and Demographic Factors on Illegal Gambling Participation in 1974

<table>
<thead>
<tr>
<th>Factors</th>
<th>Percent Placing Illegal Bets</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sport Books</td>
</tr>
<tr>
<td>Region</td>
<td></td>
</tr>
<tr>
<td>Northeast</td>
<td>3%</td>
</tr>
<tr>
<td>Northcentral</td>
<td>3</td>
</tr>
<tr>
<td>South</td>
<td>1</td>
</tr>
<tr>
<td>West</td>
<td>*</td>
</tr>
<tr>
<td>Income</td>
<td></td>
</tr>
<tr>
<td>Under $5,000</td>
<td>*</td>
</tr>
<tr>
<td>$5,001–$10,000</td>
<td>1</td>
</tr>
<tr>
<td>$15,001–$20,000</td>
<td>1</td>
</tr>
<tr>
<td>$20,001–$30,000</td>
<td>3</td>
</tr>
<tr>
<td>Over $30,000</td>
<td>5</td>
</tr>
<tr>
<td>No answer</td>
<td>3</td>
</tr>
<tr>
<td>Education</td>
<td></td>
</tr>
<tr>
<td>Grade school</td>
<td>1</td>
</tr>
<tr>
<td>High School</td>
<td>2</td>
</tr>
<tr>
<td>Some college</td>
<td>3</td>
</tr>
<tr>
<td>College degree</td>
<td>3</td>
</tr>
<tr>
<td>No answer</td>
<td>*</td>
</tr>
<tr>
<td>Religion</td>
<td></td>
</tr>
<tr>
<td>Jewish</td>
<td>6</td>
</tr>
<tr>
<td>Catholic</td>
<td>3</td>
</tr>
<tr>
<td>Fundamentalist</td>
<td>2</td>
</tr>
<tr>
<td>Other Protestant</td>
<td>1</td>
</tr>
<tr>
<td>Age</td>
<td></td>
</tr>
<tr>
<td>Under 25 years</td>
<td>2</td>
</tr>
<tr>
<td>25–44 years</td>
<td>3</td>
</tr>
<tr>
<td>45–64 years</td>
<td>2</td>
</tr>
<tr>
<td>Over 65 years</td>
<td>*</td>
</tr>
<tr>
<td>Sex</td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>4</td>
</tr>
<tr>
<td>Female</td>
<td>*</td>
</tr>
<tr>
<td>Race</td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>4</td>
</tr>
<tr>
<td>Non-white</td>
<td>2</td>
</tr>
</tbody>
</table>

* Less than .5 percent.
<table>
<thead>
<tr>
<th>Illegal Game</th>
<th>Participation (Percent of Adult Population)</th>
<th>Average Annual Wages per Bettor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sports books</td>
<td>2</td>
<td>$623</td>
</tr>
<tr>
<td>Horse books</td>
<td>2</td>
<td>417</td>
</tr>
<tr>
<td>Numbers</td>
<td>3</td>
<td>273</td>
</tr>
<tr>
<td>Sports cards</td>
<td>3</td>
<td>44</td>
</tr>
<tr>
<td>Total illegal participation</td>
<td>11</td>
<td>$318</td>
</tr>
<tr>
<td>Region</td>
<td>Percent Placing Legal Bets on</td>
<td></td>
</tr>
<tr>
<td>-----------------</td>
<td>--------------------------------</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Horses, Track</td>
<td>Casinos</td>
</tr>
<tr>
<td>Northeast</td>
<td>20%</td>
<td>9%</td>
</tr>
<tr>
<td>Northcentral</td>
<td>12</td>
<td>5</td>
</tr>
<tr>
<td>South</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>West</td>
<td>16</td>
<td>31</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Income</th>
<th>Percent Placing Legal Bets on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Horses, Track</td>
</tr>
<tr>
<td>Under $5,000</td>
<td>7</td>
</tr>
<tr>
<td>$5,001-$10,000</td>
<td>12</td>
</tr>
<tr>
<td>$10,001-$15,000</td>
<td>10</td>
</tr>
<tr>
<td>$15,001-$20,000</td>
<td>16</td>
</tr>
<tr>
<td>$20,001-$30,000</td>
<td>19</td>
</tr>
<tr>
<td>Over $30,000</td>
<td>22</td>
</tr>
<tr>
<td>No answer</td>
<td>17</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Education</th>
<th>Percent Placing Legal Bets on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Horses, Track</td>
</tr>
<tr>
<td>Grade School</td>
<td>8</td>
</tr>
<tr>
<td>High School</td>
<td>14</td>
</tr>
<tr>
<td>Some college</td>
<td>14</td>
</tr>
<tr>
<td>College degree</td>
<td>23</td>
</tr>
<tr>
<td>No answer</td>
<td>13</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Religion</th>
<th>Percent Placing Legal Bets on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Horses, Track</td>
</tr>
<tr>
<td>Jewish</td>
<td>28</td>
</tr>
<tr>
<td>Catholic</td>
<td>20</td>
</tr>
<tr>
<td>Fundamentalist</td>
<td>7</td>
</tr>
<tr>
<td>Other Protestant</td>
<td>12</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Age</th>
<th>Percent Placing Legal Bets on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Horses, Track</td>
</tr>
<tr>
<td>Under 25 years</td>
<td>14</td>
</tr>
<tr>
<td>24-44 years</td>
<td>17</td>
</tr>
<tr>
<td>45-64 years</td>
<td>13</td>
</tr>
<tr>
<td>Over 65 years</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sex</th>
<th>Percent Placing Legal Bets on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Horses, Track</td>
</tr>
<tr>
<td>Male</td>
<td>16</td>
</tr>
<tr>
<td>Female</td>
<td>12</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Race</th>
<th>Percent Placing Legal Bets on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Horses, Track</td>
</tr>
<tr>
<td>White</td>
<td>17</td>
</tr>
<tr>
<td>Non-white</td>
<td>13</td>
</tr>
</tbody>
</table>
Table 7

Police Officers' Perception of Seriousness to Citizens of Illegal Gambling and Other Offenses

<table>
<thead>
<tr>
<th>Seriousness</th>
<th>Bookmaking</th>
<th>Numbers</th>
<th>Burglary</th>
<th>Purse-snatches</th>
<th>Prostitution</th>
<th>After Hour Liquor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extremely</td>
<td>1%</td>
<td>2%</td>
<td>65%</td>
<td>54%</td>
<td>5%</td>
<td>1%</td>
</tr>
<tr>
<td>Very</td>
<td>3</td>
<td>5</td>
<td>31</td>
<td>36</td>
<td>14</td>
<td>3</td>
</tr>
<tr>
<td>Somewhat</td>
<td>18</td>
<td>23</td>
<td>4</td>
<td>9</td>
<td>41</td>
<td>17</td>
</tr>
<tr>
<td>Not very</td>
<td>53</td>
<td>50</td>
<td>0</td>
<td>1</td>
<td>33</td>
<td>53</td>
</tr>
<tr>
<td>Not at all</td>
<td>25</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>7</td>
<td>26</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>66</td>
<td>46</td>
<td>71</td>
<td>64</td>
<td>81</td>
<td>86</td>
<td>86</td>
</tr>
<tr>
<td>29</td>
<td>72</td>
<td>25</td>
<td>18</td>
<td>21</td>
<td>15</td>
<td>10</td>
</tr>
<tr>
<td>23</td>
<td>24</td>
<td>22</td>
<td>8%</td>
<td>18%</td>
<td>2%</td>
<td>2%</td>
</tr>
</tbody>
</table>

Comparison of Offense

Gambling Laws Relative to Other Offenses

Urban Citizens Priorities for Enforcement of

Table 8
Table 9

Urban Citizens' Standards for Gambling Law Enforcement

<table>
<thead>
<tr>
<th>Standards for Enforcement</th>
<th>Percent of Urban Citizens</th>
</tr>
</thead>
<tbody>
<tr>
<td>Importance of enforcing gambling laws?</td>
<td></td>
</tr>
<tr>
<td>Very important</td>
<td>39%</td>
</tr>
<tr>
<td>Fairly important</td>
<td>34</td>
</tr>
<tr>
<td>Not very important</td>
<td>27</td>
</tr>
<tr>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>Should bookmakers be arrested?</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>71%</td>
</tr>
<tr>
<td>No</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>Should convicted bookmakers go to jail?</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>52</td>
</tr>
<tr>
<td>No</td>
<td>48</td>
</tr>
<tr>
<td></td>
<td>100%</td>
</tr>
</tbody>
</table>
Table 10

Influences of Seven Economic and Demographic Factors on Legal Gambling Participation in 1974

<table>
<thead>
<tr>
<th>Legal Status</th>
<th>Horses and/or Dogs at Track</th>
<th>Horses and/or Dogs at Track</th>
<th>Lottery</th>
<th>Off-Track Betting</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Legal Gambling</td>
<td>58%</td>
<td>71%</td>
<td>68%</td>
<td>74%</td>
</tr>
<tr>
<td>Lotteries</td>
<td>53</td>
<td>58</td>
<td>79</td>
<td>87</td>
</tr>
<tr>
<td>Off-track Betting</td>
<td>34</td>
<td>44</td>
<td>38</td>
<td>67</td>
</tr>
<tr>
<td>Sports Betting with Bookie</td>
<td>18</td>
<td>25</td>
<td>21</td>
<td>38</td>
</tr>
<tr>
<td>Casinos</td>
<td>36</td>
<td>45</td>
<td>47</td>
<td>53</td>
</tr>
</tbody>
</table>

* Favorable means the citizen was in favor of the legislation where it wasn't legal or felt it should continue where it was legal.
PART VII
Conclusions

In this work there has been an attempt to ascertain the true nature of man. He is distinguished from the lower orders of Creation by two distinct features: the fact that he can reason and his ability to will his actions— in other words, he is in control of his life.

Even as early as the time of Aristotle, however, a recognition was made of the fact that some human beings exhibit different characteristics from other men. Aristotle recognizes that what he terms "vices" of the body within our own power are to be blamed; those not in our power are not.

Some of what he terms "vices," however, have, through the centuries come to be recognized as forms of illness. It is, therefore, important to stress the Aristotelian concept of "free will." Even the word "compulsion" was used in Aristotle's time. Yet, even then, there was a mistaken notion about "compulsion." Aristotle uses the example of drunkenness as his comparison of acts which are thought to be within a person's power to control. Yet, even the philosopher recognizes that there is a point beyond which actions are no longer voluntary— where the person has lost control.

Dickenson's comment at the conclusion of the first part of this work stresses the need to recognize "personal responsibility." Dickinson takes the point still further by acknowledging the element of free choice— volition— in human action.
The archaic phraesology—due process of law—has come to mean, ultimately, that it is a protection against illegal deprivation of a person's liberty and arbitrary exercise of power.

We see this phraesology transferred to the New World by its inclusion in the Fifth Amendment to the United States Constitution:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia."

The Fifth Amendment applied to the actions of the federal government only—not to the state governments. It was not until the passage of the Fourteenth Amendment that the actions of the states became involved. It was Mott who tried to demonstrate that some laws are involved against common reason. Mott makes a good distinction between the government's seizure of property as an open act visible to all and, therefore, cause for alarm; contrasted with this, the arrest of a man is not so visible and causes less sensation—and, it, therefore, becomes more dangerous to public liberty. It is for this reason that the Constitution has provided that

"no person shall be deprived of his life, liberty, or property without due process of law."

Mott cites the case of Ham v. McClaws and Wife. In his commentary on the case, he states:

"Statutes passed against the plain and obvious principles of common reason are absolutely null
and void, as far as they are calculated to operate against these principles."

Toward the end of the Nineteenth Century, a number of judges declared that due process guaranteed equal and impartial justice and this was accomplished only when laws operated on all alike.

Closely connected with the concept of due process is the equality provision. Legislation was excluded which inflicts inequality of burden which is not grounded in the standing law but is truly arbitrary and without any reasonable basis. The Fourteenth Amendment did contain the equality provision and it brought to the attention of the public the necessity of preventing discriminatory laws.

Chief Justice Marshall first used the term "police power."
It is the power of the legislature to make, ordain, and establish law for the good of the Commonwealth that are not repugnant to the Constitution.

The concept of reasonableness is repeatedly stressed. Mott investigates the taxing power of the government and states that the tax must "be for a public purpose." He enumerates the charitable functions able to be aided by the tax dollars as care of the insane, the sick, or paupers.

In cases of social legislation, the law must be directly related to the concepts of health or morals to satisfy due process. The courts have always treated medical evidence as of prime importance. Public opinion is also of prime importance to due process cases.

Liberty as the Fourteenth Amendment used the term became equated with property. An immunity was given it far surpassing any that had
been dreamed of in the philosophy of vested rights. Mott reiterates his earlier claim that it is the Fourteenth Amendment that gives federal courts jurisdiction over these cases; the earlier Fifth Amendment had given jurisdiction to the state courts. The whole emphasis changed from personal to property rights.

We see the courts awakening to changing social policy.

If there are two polar opposites, they are the words "liberty" and "addiction." The Harrison Act of 1914 was passed as a revenue measure; yet, the Act makes no mention of addicts or addiction. We see the changing attitude of the Court in the 1925 *Linder* case. Finally, Lindesmith concludes that the present punitive system of dealing with addicts is in direct violation of federal law, and it is based on an unconstitutional interpretation of the Harrison Act.

The author extends his reasoning to investigate the concept of cruel and unusual punishment. He also cites the illegalities used by law enforcement officers and the unlawfulness employed by the police in attempting to handle the problem.

The author is approaching the concept of punishment when he mentions the benefits accruing to society by incarcerating the addict.

An investigation of the various kinds of addictions with particular emphasis on a gambling addiction is treated in the next Section. In connection with the word "addiction" the use of the term "tolerance" is employed. This is the need for increasing amounts of a substance to produce the same effect on the body with regular use. It is interesting to note that when the word "compulsive" is applied to negative behavioral patterns, it means they are characterized by the
continual commitment of an act that violates a person's standards. It has been repeated often in the readings that the addict cannot stop until all his money is gone.

Dr. Thomas Martinez terms the five conscious moods a person undergoes in the process of becoming a gambler of the "compulsive type." There is an explanation of the causes of compulsive gambling behavior from Freud's concept of early life excessive concern with anality to some act which has created a sense of the gambler's own failure.

A startling discovery was discussed with Dr. Robert Custer of the Veterans' Administration who believes the cause of compulsive gambling is connected with the beta-endorphins, the brain peptides whose effects are similar to opiates.

There is a review of the properties of peptides which are the joining together of amino acids. The beta-endorphins are the natural products of the anterior pituitary gland, generated directly from LPT. According to Hughes it has been assumed but not proven that peptides may act as neurotransmitter agents. Dr. Custer's work on the subject has given a comprehensive progression of the stages of this disease to the point where the actions of the involved individuals are finally termed "compulsive." Here there is a recognition that the compulsive gambler's volition not his reason is impaired. There was an acknowledgement of Dr. Custer's insistence that Gambler's Anonymous is the "answer" for the addict; this reinforces the conclusions of Dr. William Kelley of the Department of Psychology, Georgetown University.
In recent years, the American Psychiatric Association recognized that compulsive gambling is an illness. In addition, an investigation of the way the law views a gambling addiction was demonstrated through numerous charts and tables drawn up by the National Institute of Law Enforcement and Criminal Justice of the United States Department of Justice. What constitutes the "crime" of gambling and the penalties for it are explained by the Department of Justice. Yet, there is some reluctance on the part of both the police and the ordinary citizen with regard to the enforcement of gambling laws.

If compulsive gambling is a crime, there should be a corresponding "punishment." Yet, Dr. Custer has demonstrated that the compulsive gambler is unable to respond to reward or punishment. It seems a deduction of common reason that such an individual should be treated for an illness rather than punished for a crime.
PART VIII
Suggestions

From the foregoing work, it is clear that the compulsive gambler is a very sick individual who needs help. He and his family are "victims" of what has been termed "victimless crime."

From Dr. Robert Custer's studies it is evident that the compulsive gambler has lost all sensible control. His family is in thousands of dollars of debt. The gambler needs the counselling of a doctor and an attorney. It is suggested that instead of incarcerating the gambler—who should be determined by a psychiatrist that he is a gambler who has reached the "compulsive" stage—that he be helped by both the legal and medical profession. The attempt has been made in this thesis to define the problem and propose solutions. This can be accomplished by the creation of a Joint Commission of the American Medical Association and the American Bar Association.

Perhaps more work should be done on the "handicapped" definition to include mental illness—and, specifically, addiction. In addition, public funds might be allocated for the promotion of information on this illness that more people will come to recognize it for what it is: an illness and not a crime.

More government funding, especially through the National Institute of Mental Health, would be wisely appropriated if it were directed toward the study of a gambling addiction.

Citizens have an obligation to attempt to restore compulsive gamblers to a state of mental health. This can be accomplished through the voicing of public opinion. This is probably more
important in activating any of the aforementioned groups, such as the AMA and the ABA, than any other source available. Citizens will receive action if they contact their Congressmen and seek the support of the legislators in bringing about needed social change in the area of mental health research.
APPENDICES
Mrs. Joan Marie Shariat
124 Quincy Street
Chevy Chase, Maryland 20815
March 28, 1985

Dear Mrs. Shariat,

Thank you for writing me concerning compulsive gambling. You have tackled a large and complex problem.

In New Jersey when the Legislature examined the constitutional amendment permitting casino gambling we did not -- through ignorance -- explore enough the way in which the gambling would be conducted, and how it would impact the millions of people who now visit the casinos each year. Only in the past few years have some people begun to realize that there are many facets of the law that may, in fact, acerbate the disease of compulsive gambling. One of these is the handling of casino credit, about which a few of my bills are concerned.

In New Jersey it is clear legalized gambling is here to stay, so our next step -- the one on which I have been working -- is to look at the mistakes we have made and determine how best to correct them. The bills I have introduced concerning legalized gambling (the ones enclosed) deal with this. A few concern casino credit, which I mentioned. One concerns the state lottery, because there are, I have found, compulsive gamblers who play only the lottery. One bill concerns all three forms of legalized gambling in New Jersey -- the casinos, the lottery, and horse racing. I also have introduced legislation to form a Governor's Advisory Committee on Gambling, which would continually look at all gambling in the state to determine, essentially, how we want to proceed with it.
Also, it has long been my belief that if states legalize gambling then they have a responsibility to help those who it hurts. Legislation of mine to establish and fund a Council on Compulsive Gambling of New Jersey was enacted a few years ago, and the program has been helping to refer compulsive gamblers to treatment, and has taken an active role in educating the public about the disease. I also was instrumental in starting a research project at our state University of Medicine and Dentistry to begin to find out what causes compulsive gambling.

Again, thank you for writing. If you've any more concerns or questions, please feel free to contact me (201) 232-3673, and I will do what I can to help you.

Sincerely,

Chuck Hardwick
Chuck Hardwick
ASSEMBLY, No. 700

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman HARDWICK


1. Be it enacted by the Senate and General Assembly of the State of New Jersey:
1. All lottery tickets or shares printed after the effective date of this supplementary act and any lottery promotion or advertisement shall contain the words "If you or someone you know has a gambling problem and wants help, call Gamblers Anonymous" followed by the appropriate telephone number. This information shall appear or be communicated conspicuously or emphatically.

2. This act shall take effect immediately.

STATEMENT

This bill requires language to be printed on lottery tickets and to appear in all advertising or promotion of the lottery urging anyone who has a gambling problem and wants help, or who knows someone who has a gambling problem and wants help, to call Gamblers Anonymous. The intent of the bill is to cause people to think about their gambling activities and consider whether they have a gambling problem.
ASSEMBLY, No. 703

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen HARDWICK, GILL, SCHUBER, KOSCO, KERN and OTOLOWSKI

An Act concerning compulsive gambling and providing for an additional license fee on certain legalized gambling devices.

1 Be it enacted by the Senate and General Assembly of the State of New Jersey:
2 1. In addition to any fee imposed by law on slot machines pursuant to P. L. 1977, c. 110, s. 140 (C. 5:12-140), there is imposed an annual fee of $25.00 on each of these machines to be assessed and collected by the Division of Taxation in the Department of Treasury. The fee shall be imposed as of January 1 of each year with regard to all machines maintained for use or in use on that date, and on a pro rata basis thereafter during the year with regard to all machines maintained for use or placed in use after January 1.
3 2. In addition to any fee imposed by law on lottery ticket dispensing machines, there is imposed an annual fee of $25.00 on each of these machines to be assessed and collected by the Division of Taxation in the Department of the Treasury. The fee shall be imposed as of January 1 of each year with regard to all machines maintained for use or in use on that date, and on a pro rata basis thereafter during the year with regard to all machines maintained for use or placed in use after January 1.
4 3. In addition to any fee imposed on parimutuel ticket dispensing machines, there is imposed an annual fee of $25.00 on each of these machines to be assessed and collected by the Division of Taxation in the Department of the Treasury. The fee shall be
imposed as of January 1 of each year with regard to all machines
maintained for use or in use on that date, and on a pro rata basis
during the year with regard to all machines maintained
for use or placed in use after January 1.

4. The additional fee imposed by this act shall be governed by
the provisions of the "State Tax Uniform Procedure Law," Sub-
title 9 of Title 54 of the Revised Statutes.

5. The Director of the Division of Taxation shall issue such rules
and regulations as may be necessary to implement the provisions
of this act.

6. The fees imposed by this act shall be deposited in a special
account in the general treasury. Moneys in the account, exclusive
of such amounts as may be necessary for administration and
collection of the fees imposed by this act, shall be appropriated
to the Department of Health for programs for the treatment of
compulsive gambling.

7. Each casino licensee shall establish a list of compulsive
gamblers. Only those persons who notify the casino licensee in
writing that they desire to have their name placed on the list, shall
be included thereon. The lists of compulsive gamblers maintained
by casino licensees shall be circulated among the other casino
licensees and maintained on as current a basis as is possible.
The lists shall be confidential to casino licensees. No person whose
name is on the list shall be granted credit by a casino licensee.
Any person may have his name removed from the list upon 24 hours
notice in writing to the casino licensee.

8. This act shall take effect January 1, 1985.

STATEMENT

This bill would establish an additional license fee for each slot
machine, lottery ticket dispensing machine and pari-mutuel ticket
dispensing machine. The $25.00 annual fee would be placed in a
special account to provide for the treatment of compulsive
gamblers.

The bill also provides that compulsive gamblers may voluntarily
place their names on a list maintained by casinos which would
make them ineligible for credit.
ASSEMBLY, No. 704

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen HARDWICK, GILL, SCHUBER, KOSCO,
KERN and OTLOWSKI

An Act concerning the extension of credit for gaming activities by casino licensees and amending P. L. 1977, c. 110.

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. Section 101 of P. L. 1977, c. 110 (C. 5:12-101) is amended to read as follows:

101. Credit. a. Except as otherwise provided in this section, no casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall:

(1) Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming activity as a player; or

(2) Release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by any player in gaming activity without maintaining a written record thereof in accordance with the rules of the commission.

b. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, may accept a check, other than a recognized traveler's check or other cash equivalent, from any person to enable such person to take part in gaming activity as a player, or may give cash or cash equivalents in exchange for such check unless:

EXPLANATION—Matter enclosed in bold-faced brackets [ ] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.
(1) The check is made payable to the casino licensee;
(2) The check is dated, but not postdated;
(3) The check is presented to the cashier or his representative
and is exchanged only for a credit slip or slips which total an
amount equal to the amount for which the check is drawn, which
slip or slips may be presented for chips at a gaming table; and
(4) The regulations concerning check cashing procedures are
observed by the casino licensee and its employees and agents; and
(5) At least 24 hours have elapsed between the time the drawer
presented the check and the time a credit slip is issued therefor,
if the drawer has never received credit from a casino licensee
pursuant to this subsection.

Nothing in this subsection shall be deemed to preclude the
establishment of an account by any person with a casino licensee
by a deposit of cash or recognized traveler's check or other cash
equivalent, or to preclude the withdrawal, either in whole or in
part, of any amount contained in such account.

c. When a casino licensee or other person licensed under this
act, or any person acting on behalf of or under any arrangement
with a casino licensee or other person licensed under this act,
cashes a check in conformity with the requirements of subsection
b. of this section, the casino licensee shall cause the deposit of such
check in a bank for collection or payment within (1) seven banking
days of the date of the transaction for a check in an amount less
than $1,000.00; (2) fourteen banking days of the date of the trans-
action for a check of at least $1,000.00 but less than $2,500.00;
or (3) ninety banking days of the date of the transaction for a
check of $2,500.00 or more. Notwithstanding the foregoing, the
drawer of the check may redeem the check by exchanging cash or
chips in an amount equal to the amount for which the check is
drawn; or he may redeem the check in part by exchanging cash
or chips and another check which meets the requirements of sub-
section b. of this section for the difference between the original
check and the cash or chips tendered; or he may issue a check
which meets the requirements of subsection b. of this section in
an amount sufficient to redeem two or more checks drawn to the
order of the casino licensee. If there has been a partial rede-
emption or a consolidation in conformity with the provisions of this
subsection, the newly issued check shall be delivered to a bank
for collection or payment within the period herein specified. No
casino licensee or any person licensed under this act, and no per-
son acting on behalf of or under any arrangement with a casino
licensee or other person licensed under this act shall accept any
check or series of checks in redemption or consolidation of another
check or checks in accordance with this subsection for the purpose
of avoiding or delaying the deposit of a check in a bank for
collection or payment within the time period prescribed by this
subsection.

d. No casino licensee or any other person licensed under this
act, or any other person acting on behalf of or under any arrange-
ment with a casino licensee or other person licensed under this
act, shall transfer, convey, or give, with or without consideration,
a check cashed in conformity with the requirements of this section
to any person other than:

(1) The drawer of the check upon redemption or consolidation
in accordance with subsection c. of this section;
(2) A bank for collection or payment of the check; or
(3) A purchaser of the casino licensee as approved by the
commission.
The limitation on transferability of checks imposed herein shall
apply to checks returned by any bank to the casino licensee without
full and final payment.
e. No person other than one licensed as a casino key employee
or as a casino employee may engage in efforts to collect upon
checks that have been returned by banks without full and final
payment, except that an attorney-at-law representing a casino
licensee may bring action for such collection.
f. Notwithstanding the provisions of any law to the contrary,
checks cashed in conformity with the requirements of this act
shall be valid instruments, enforceable at law in the courts of this
State. Any check cashed, transferred, conveyed or given in viola-
tion of this act shall be invalid and unenforceable.

g. The drawer of a check shall be ineligible to receive credit under
this section if:

(1) the drawer has cashed a check in conformity with the re-
quirements of subsection b. of this section which was returned by
a bank to a casino licensee without full payment and the drawer
has not made payment of the full amount of the check; or

(2) the drawer has outstanding debts with a holder of a license
which authorizes the holder to own or operate a casino located out-
side of this State.

2. This act shall take effect 90 days following enactment.
STATEMENT

The object of this bill is to tighten controls over the use of credit by casino patrons.

Under current law casinos may extend credit to patrons on the basis of the patron's personal check.

If a patron is receiving credit from a casino licensee for the first time, the bill requires a 24 hour waiting period between the time this patron presents his check for credit and the time the casino issues a credit slip which may be presented for gaming chips. This waiting period will allow the patron to reflect on his desire to continue gambling. Finally, this bill would prohibit the casinos from giving credit to patrons who have issued bad checks to casinos in this State or patrons with outstanding debts to casinos outside New Jersey until the full amount of the check or debt is paid.
ASSEMBLY, No. 705

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen HARDWICK, SCHUBER, BAER, GILL, KOSCO, KERN and OTLOWSKI


1. Be it enacted by the Senate and General Assembly of the State of New Jersey:
   1. Section 24 of P.L. 1977, c. 110 (C. 5:12-24) is amended to read as follows:
   24. “Gross Revenue”—The total of all sums, including checks received by a casino licensee pursuant to section 101 of this act, whether collected or not, actually received by a casino licensee from gaming operations, less only the total of all sums paid out as winnings to patrons and a deduction for uncollectible gaming receivables not to exceed the lesser of a reasonable provision for uncollectible patron checks received from gaming operations or 4% of the total of all sums including checks, whether collected or not, less the amount paid out as winnings to patrons.
   2. This act shall take effect immediately.

STATEMENT

This bill removes the provision which allows a deduction for certain uncollectible gaming receivables in the definition of gross revenue received by casino licensees. This creates the highest incentive possible on the part of the gaming industry in New Jersey to extend credit only to those patrons who are credit worthy. The State would no longer be in a position of partially underwriting the casino industry’s bad debts by offsetting gross revenues subject to the 8% tax for uncollectible gaming receivables.

EXPLANATION—Matter enclosed in bold-faced brackets herein in the above bill is not enacted and is intended to be omitted in the law.
ASSEMBLY, No. 707

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen HARDWICK and FORTUNATO

An Act establishing the Governor's Advisory Committee on Gambling and making an appropriation.

1. BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds and declares that:

2. a. The existence in this State of casino gambling, pari-mutuel wagering on horse races, a State lottery, and bingo and raffles provides a variety of gambling opportunities to the people of this State and has a direct impact upon the life and the society of this State, especially upon the estimated 375,000 compulsive gamblers in New Jersey.

3. b. Increasingly, the State has looked to revenue from gaming, both in its existing forms and in new forms, as a means to solve the fiscal problems of the State.

4. c. A study of the social impact of gambling upon the lives of the residents of this State, of the role of legalized gaming as a revenue-raising operation, and of the best way to conduct legalized gaming in this State is appropriate.

5. 2. There is created the "Governor's Advisory Committee on Gambling" consisting of the following members:

6. a. Two members of the Senate appointed by the President thereof, no more than one of whom shall be of the same political party;

7. b. Two members of the General Assembly appointed by the Speaker thereof, no more than one of whom shall be of the same political party;

8. c. Three public members appointed by the Governor;
d. The Commissioner of Health or his designee;
e. The State Treasurer or his designee;
f. The Commissioner of Education or his designee;
g. The Counsel to the Governor or his designee;
h. The Chairman of the Casino Control Commission or his
designee;
i. The Chairman of the New Jersey Racing Commission or his
designee; and
j. The Director of the Council on Compulsive Gambling of New
Jersey.
All members shall serve without compensation. Vacancies shall be filled in the same manner as the original appointments were made.

3. The commission shall organize as soon as possible after the appointment of its members and shall select a chairman and a vice chairman from among its members and a secretary, who need not be a member of the commission.

4. It shall be the duty of the commission to study the social impact of gambling upon New Jersey, to examine the role of legalized gaming as a revenue-raising operation, and to determine the best way to conduct legalized gaming in this State.

5. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purpose and to employ professional stenographic, and clerical assistants and incur traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for its purposes.

6. The commission may meet and hold hearings at such place or places as it shall designate during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Governor and the Legislature not later than December 31, 1984, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

7. The commission shall have all the powers provided by the provisions of chapter 13 of Title 52 of the Revised Statutes.

8. There is appropriated $25,000.00 from the General Fund to the commission for the purposes of this act.

9. This act shall take effect immediately and shall expire December 31, 1984.
STATEMENT

This bill creates the Governor’s Advisory Committee on Gambling to study the social impact of gambling on New Jersey, to examine the role of legalized gaming as a revenue-raising operation, and to determine the best way to conduct legalized gaming in this State.
ASSEMBLY, No. 699

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman HARDWICK


1 Be it enacted by the Senate and General Assembly of the State of New Jersey:
2 1. Section 97 of P. L. 1977, c. 110 (C. 5:12-97) is amended to read as follows:
3 97. Hours of Operation. a. No casino licensed pursuant to this act shall operate between the hours of 6 a.m. and 10 a.m.
4 on Saturdays, Sundays and State and federal holidays, or between the hours of 4 a.m. and 10 a.m. on all other days on any day.
5 b. A casino licensee shall file with the commission a schedule of hours prior to the issuance of an initial operation certificate. If the casino licensee proposes any change in scheduled hours, such change may not be effected until such licensee files a notice of the new schedule of hours with the commission. Such filing must be made 30 days prior to the effective date of the proposed change in hours.
6 c. Nothing herein shall be construed to limit a casino licensee in opening its casino later than, or closing its casino earlier than, the times stated in its schedule of operating hours; provided, however, that any such alterations in its hours shall comply with the provisions of subsection a. of this section and with regulations of the commission pertaining to such alterations.
7 2. Section 103 of P. L. 1977, c. 110 (C. 5:12-103) is amended to read as follows:
8 103. Alcoholic Beverages on Casino Hotel Facilities. a. Notwithstanding any law to the contrary, the authority to grant any
9 EXPLANATION—Matter enclosed in bold-faced brackets [ ] in the above bill is not enacted and is intended to be omitted in the law.
10 Matter printed in italics that is new matter.
license for, or to permit or prohibit the presence of, alcoholic beverages in, on or about any premises licensed as part of a casino hotel shall exclusively be vested in the commission.

b. Unless otherwise stated, and except where inconsistent with the purpose or intent of this act or the common understanding of usage thereof, definitions contained in Title 33 of the Revised Statutes shall apply to this section. Any definition contained therein shall apply to the same word in any form.

c. Notwithstanding any provision of Title 33 of the Revised Statutes, the rules, regulations and bulletins promulgated by the director of the Division of Alcoholic Beverage Control, or any provision promulgated by any local authority, the authority to issue, renew, transfer, revoke or suspend a Casino Hotel Alcoholic Beverage License or any portion, location, privilege or condition thereof; to fine or penalize a Casino Hotel Alcoholic Beverage Licensee; to enforce all statutes, laws, rulings or regulations relating to such license; and to collect license fees and establish application standards therefor, shall be, consistent with this act, exclusively vested in the commission or the division.

d. Except as otherwise provided in this section, the provisions of Title 33 of the Revised Statutes and the rules, regulations and bulletins promulgated by the director of the Division of Alcoholic Beverage Control shall apply to a Casino Hotel and Casino Hotel Alcoholic Beverage Licensee licensed under this act.

e. Notwithstanding any provision to the contrary, the commission may promulgate any regulations and special rulings and findings as may be necessary for the proper enforcement, regulation, and control of alcoholic beverages in casino hotels when the commission finds that the uniqueness of casino operations and the public interest require that such regulations, rulings, and findings are appropriate. Regulations of the commission may include but are not limited to: designation and duties of enforcement personnel; all forms necessary or convenient in the administration of this section; inspections, investigations, searches, seizures; licensing and disciplinary standards; requirements and standards for any hearings or disciplinary or other proceedings that may be required from time to time; the assessment of fines or penalties for violations; hours of sale; sale in original containers; sales on credit; out-of-door sales; limitations of sales; gifts and promotional materials; locations or places for sale; control of signs and other displays; identification of licensees and their employees; employment of aliens and minors; storage, transportation and sanitary requirements; records to be kept by the Casino Hotel Alcoholic Beverage
Licensees and availability thereof; practices unfairly designed to increase consumption of alcoholic beverages; and such other matters whatsoever as are or may become necessary and consistent with the administration of this act.

f. (1) It shall be unlawful for any casino licensee, or any of its lessees, agents or employees to expose for sale, solicit or promote the sale of, possess with intent to sell, sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on or about any portion of the premises of a casino hotel, unless said person possesses an appropriate Casino Hotel Alcoholic Beverage License.

(2) It shall be unlawful for any person issued a Casino Hotel Alcoholic Beverage License to expose, possess, sell, give, dispense, transfer, or otherwise dispose of alcoholic beverages, other than within the terms and conditions of the Casino Hotel Alcoholic Beverage License issued, the provisions of Title 33 of the Revised Statutes, the rules and regulations promulgated by the director of the Division of Alcoholic Beverage Control, and, when applicable, the regulations promulgated pursuant to this act.

g. In issuing a Casino Hotel Alcoholic Beverage License the commission shall describe the scope of the particular license and the restrictions and limitations thereon as it deems necessary and reasonable. The commission may, in a single Casino Hotel Alcoholic Beverage License, permit the holder of such a license to perform any or all of the following activities, subject to applicable laws, rules and regulations:

(1) To sell any alcoholic beverages by the glass or other open receptacle, but not in an original container, for on-premises consumption within a casino; provided, however, that no food or alcoholic beverage, other than nonalcoholic beverages or garnishments used in the preparation of alcoholic beverages for consumption by the glass, shall be sold, given or be available for consumption; offered, delivered or otherwise brought to a patron; or consumed at a gaming table unless so requested by the patron and, with respect to any alcoholic beverage, unless the regular cost of such a beverage at the casino shall be paid by the patron.

(2) To sell any alcoholic beverage by the glass or other open receptacle for on-premises consumption within an enclosed cabaret or entertainment room not in a casino.

(3) To sell any alcoholic beverage by the glass or other open receptacle for on-premises consumption within an enclosed restaurant or banquet room or a series of enclosed connected rooms, with or without an adjacent outdoor dining area, not in a casino.

(4) To sell any alcoholic beverage by the glass or other open
receptacle for on-premises consumption within a pub room not in a casino, or from one fixed location outside a building or structure containing a casino but on a casino hotel premises.

(3) To sell any alcoholic beverage in original containers for consumption outside the licensed area from one enclosed package room not in a casino; provided, however, that no food shall be made available for consumption in a package room and no direct access to or from a casino may exist in a package room.

(6) To sell any alcoholic beverage from one fixed room service location within an enclosed room not in a casino; provided, however, that the licensed room service room has no direct access to or from a casino and any sale of alcoholic beverages is delivered only to a guest room or to any other room in the casino hotel authorized by the commission other than any room authorized by the commission pursuant to paragraphs (1), (2), (3), (4), or (5) of this subsection.

(7) To possess or to store alcoholic beverages intended but not actually exposed for sale in an area, room or location so licensed. The holder of a Casino Hotel Alcoholic Beverage License permitting such possession and storage shall be entitled, subject to applicable laws, rules, and regulations, to store any alcoholic beverage intended for sale at a fixed location on a casino hotel premises, not in a casino, and not otherwise licensed under this section; and to transfer or deliver such alcoholic beverages only to a licensed location for which such licensee is licensed; provided, however, that no access to or from a licensed storage location shall be permitted except during the normal course of business by employees or agents of the licensee, or by licensed employees or agents of wholesalers or distributors licensed pursuant to Title 33 of the Revised Statutes and any applicable rules and regulations; and provided further, however, that no provision of this section shall be construed to prohibit a Casino Hotel Alcoholic Beverage Licensee from obtaining an off-site storage license from the Division of Alcoholics Beverage Control.

h. (1) No Casino Hotel Alcoholic Beverage License which authorizes the sale of alcoholic beverages within a casino pursuant to subsection g. (1) of this section shall issue to any applicant who does not hold a casino license issued pursuant to this act.

(2) No Casino Hotel Alcoholic Beverage License which authorizes the possession, sale or storage of alcoholic beverages pursuant to subsection g. (2), (3), (4), (5), (6), or (7) of this section shall issue to any applicant who would not qualify under the standards for licensure of a casino employee as defined under this act, except
that such applicant need not be an employee of the casino licensee.

(3) No Casino Hotel Alcoholic Beverage License which authorizes the possession or storage of alcoholic beverages pursuant to subsection g. (7) of this section shall issue to any applicant who does not hold a Casino Hotel Alcoholic Beverage License, permitting any activity pursuant to subsection g. (1), (2), (3), (4), (5) or (6) of this section.

i. The commission may revoke, suspend, refuse to renew or restrict any Casino Hotel Alcoholic Beverage License, or impose or penalize any Casino Hotel Alcoholic Beverage Licensee for violations of any provision of Title 33 of the Revised Statutes, the rules and regulations promulgated by the director of the Division of Alcoholic Beverage Control, and the regulations promulgated by the commission.

j. Jurisdiction over all alcoholic beverage licenses previously issued with respect to the casino hotel facility is hereby vested in the commission, which in its discretion may by regulation, provide for the conversion thereof into a Casino Hotel Alcoholic Beverage License as provided in this section.

3. This act shall take effect immediately.

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STATEMENT

This bill provides that casinos shall be open no more than 16 hours a day and that the closing time every day shall be 2 a.m. This is to ensure a lengthy break in the opportunity to gamble and thus to help in preventing a patron from gambling to excess and contrary to his good judgment.

This bill also provides that no free drinks shall be provided to patrons at gaming tables in casinos. The intent is to reduce the consumption of alcoholic beverages and thus to reduce the possibility that the judgment of a patron at a gaming table will be impaired.
Signs to help the professional identify the Compulsive Gambler
(Remember this is an invisible disease. Unlike the alcoholic or
drug addict, you won't be able to see the symptoms.)

Questions to ask

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Did you ever lose time from work due to gambling?
Has gambling ever made your home life unhappy?
Did gambling affect your reputation?
Have you ever felt remorse after gambling?
Did you ever gamble to get money with which to pay debts or otherwise solve
financial difficulties?
Did gambling cause a decrease in your ambition or efficiency?
After losing, did you feel you must return as soon as possible and win back
your losses?
After a win, did you have a strong urge to return and win more?
Did you often gamble until your last dollar was gone?
Did you ever borrow to finance your gambling?
Have you ever sold anything to finance gambling?
Were you reluctant to use "gambling money" for normal expenditures?
Did gambling make you careless of the welfare of your family?
Did you ever gamble longer than you planned?
Have you ever gambled to escape worry or trouble?
Have you ever committed, or considered committing, an illegal act to finance
gambling?
Did gambling cause you to have difficulty in sleeping?
Do arguments, dissapointments or frustrations create within you an urge to
gamble?
Did you ever have an urge to celebrate any good fortune by a few hours of
gambling?
Have you ever considered self destruction as the result of your gambling?
Do you read sports pages before reading front page of newspaper?
Do you find yourself attending or watching sporting events on T.V. when you
should be doing something else?
Do you have major financial problems?
Do you have a personal bookmaker?
Do you bet money that you don't have?

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Symptoms that will appear

THE AVERAGE
COMPELLIVE GAMBLER HAS AN I.Q. OF OVER 120

96% OF ALL COMPULSIVE GAMBLERS STARTED GAMBLING BEFORE AGE 14.

No hobbies or only those connected to gambling.
Admit to a very high energy level.
Unreasonable optimism.
Increased amounts wagered.
Bragging about winnings.
Preoccupation with gambling.
Bailouts.
Personality changes (e.g., irritability, restlessness).
Alienation from family and friends.
Blaming others.
Remorse over losses.
Panic.
Illegal acts.
Have feelings of elation or depression based on outcome of bet.
Borrowing from co-worker, credit unions, family members (but never says for gambling).
Runs office pools.
Personal loans.
Excuses for many losses.
Bad checks.
Increased checks made out to cash.
Increased checking activity.
Brushes with the law.
Restless and irritable when not gambling.
Honeymoon where gambling is available.
Tries to avoid conflict; if necessary, by lying, exaggerating, distorting.
Hyper-critical of spouse's friends and family.
Likes people who gamble.
Risk takers particularly in financial ventures.
Bore easily in social situations.
Life insurance policies are cashed in or discontinued.
Pawning of personal and spouse's jewelry.

There frequently is a big winning episode which is clearly remembered "The E Win!"

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These are the results of a survey of compulsive gamblers from across the United States who sought help with their gambling problem within the last twenty years. Of the 196 people who have responded, these are the results.

The average amount of money owed when the person sought help was $43,158. The age of these people is averaged at 39.8 years old. All have finished elementary school, 83.5% have finished school to the high school, and only 25% have finished college. The average age of the people when they made their first bet was 13 years old.

85% of the people had jobs when they sought help. 41% of them had white collar jobs, and 39% of them had blue collar jobs. 6.5% of them were professionals, and 1% were retired. Now, 52% have white collar jobs, 28% have blue collar jobs, 6.5% are professionals, and 6% are retired.

Health insurance was owned by 85% of the people when they sought help.

One of the questions asked was who made the call to seek help. 58% of the people made the call themselves. 32.5% had their spouse call for help. 5% had their friend call for help.

74% of the people gambled on cards, 85% gambled on horses, 79% gambled on sporting events, 30% gambled on the number games, 42% gambled in the casinos, 5% played bingo, and 3% gambled on dogs.

84% of the people were married when they sought help, 4% were separated, 4% were divorced, and 6% were single.

9% of the people surveyed had children who were addicted to something. 4.3% of the children were addicted to drugs, 1.9% were addicted to alcohol, 2.4% were addicted to gambling, .4% were addicted to overeating.

16% of the people had compulsive gamblers for fathers, 6% had mothers that gambled, and 10% had other gambling relatives.

78% of the people were bailed out (had their gambling debts paid off). Of the 78% that were bailed out, 91% continued gambling, and 1% tried suicide. 69% of the people have had thoughts of suicide, and 17% have actually tried suicide.

75% of the people who responded committed a felony because of gambling. 15% stole for money, 18% embezzled money, and 22% used bad checks.

24% of the people who are compulsive gamblers also have an additional addiction. 9% are alcoholics, 3% use drugs, 6% are smokers, and 11% are over-eaters. Some are combinations of all of this 24%, 68% are going for help.
WHAT FEELINGS AND THOUGHTS DID YOU HAVE FROM AGE 1 TO MANHOOD?? ASKED OF RECOVERING COMPULSIVE GAMBLERS?

FELT LIKE A DISAPPOINTMENT TO FATHER
TAUGHT NOT TO CRY OR SHOW FEELINGS
FIGHTS AND ARGUMENTS WITH FATHER
FELT UNCOMFORTABLE AROUND GIRLS
SAW CARD GAMES IN HOME OR TALK ABOUT GAMBLING
WENT TO GAMBLING ESTABLISHMENTS WITH FATHER (OR CLOSE RELATIVE)
FATHER WAS AN ALCOHOLIC OR GAMBLER
LOVE FROM MOTHER, BUT NOT FATHER
ONLY REMEMBER PAINFUL FEELINGS
VERY FEW GOOD TIMES
AWAY FROM PARENTS OR HOME DURING GROWING UP YEARS
DEPRESSIONS AND FEARS
HAD LOTS OF HEADACHES
FELT INSECURE
FELT OUT OF PLACE
MAKE TO FEEL RESPONSIBLE FOR BAD THINGS THAT HAPPENED IN HOME
WAS AN ANGRY AND BITTER PERSON
PARENTS NEVER COMING TO THINGS YOU WERE PART OF
FATHER NEVER TOOK YOU ANYPLACE (EXCEPT GAMBLING ESTABLISHMENT)
NO ACKNOWLEDGEMENT OF THINGS YOU DID
FAMILY MOVED A LOT
STARTED TO LIE A LOT
GOT MARRIED TO GET OUT OF HOUSE
FELT UNCOMFORTABLE WITH FATHER
COUNCIL NOT SAY "LOVE"
WANTED TO FOLLOW IN FATHER'S FOOTSTEPS (BUT DO IT BETTER)
WOMEN G.A. MEMBERS FELT THEY GOT LOVE FROM FATHER BUT NOT MOTHER
COULDN'T SHOW EMOTION
FATHER NEVER SPENT TIME WITH US
BED-WETTING
COULDN'T REMEMBER TOO MUCH OF THOSE YEARS
NEEDED APPROVAL OR ACCEPTANCE
A Chart on the Effects of Compulsive Gambling on the Wife
The gambler will use these words:

Action
Runner
Bank
Chalk
Into
Bailout
Unit
Pick-em
Shylock or Shys
Price
Hit
Book
Trots
Flats
Baskets
To cover
Collector
Number
Nickel line
Dime line
Times bet (e.g. 5x 10x 50x 100x)
Push
Long shot
Out bet
Lock
Limit
Get even

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Making the Diagnosis

Diagnostic Criteria for Pathological Gambling as presented in the American Psychiatric Association’s Diagnostic and Statistical Manual III (DSM-III) (1) is as follows:

Diagnostic Criteria for Pathological Gambling:

a. The individual is chronically and progressively unable to resist impulses to gamble.

b. Gambling compromises, disrupts, or damages family, personal, and vocational pursuits, as indicated by at least three of the following:

(1) arrest for forgery, fraud, embezzlement, or tax evasion due to attempts to obtain money for gambling.

(2) default on debts or other financial responsibilities.

(3) disrupted family and/or spouse relationship due to gambling.

(4) borrowing of money from illegal sources (loan sharks).

(5) inability to account for loss of money or to produce evidence of winning money, if this is claimed.

(6) loss of work due to absenteeism in order to pursue gambling activity.

(7) necessity for another person to provide money to relieve a desperate financial situation.

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Notes


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