

R.S. 5:8-1 to 77

October 31, 1963

LEGISLATIVE HISTORY OF R. S. 5:8-1 to 77

(Legalized Games of Chance Control Commission)

*For material
see copy 2*

For historical background, see:

J342 Waisden, R. N.
B16 Charter for New Jersey. 1952. See Ch. III "The
 Problem of Gambling". p. 25-39 (copy enclosed)

Following adoption of the Constitution of 1947 bills to legalize bingo and/or raffles were introduced in the Legislature every year. None of these bills passed either house until 1952.

1952 - S-26 - Passed both houses and vetoed by the Governor on May 27, 1952. (enclosed)

In 1953, SCR-10, which placed the issue on the 1953 ballot, was passed. A hearing on SCR-10 was held June 15, 1953 (no copy of hearing available).

On December 19, 1953, the Bigelow Committee, appointed by Governor-elect Meyner, held a hearing:

974.90 N. J. Com. ... to study problems involved in
G191 enacting legislation relative to Bingo.
1953 Public hearing, 1953. (enclosed)

On January 15, 1954 the Commission issued its report:

974.90 N. J. Com. ... to study problems involved in
G191 enacting legislation relative to Bingo.
1954 Report, 1954. (enclosed)

The group of bills which became law were introduced in late January and early February, 1954:

Laws 1954, Chapter 5 - S-7 - Introduced January 25 by Senator Stout
No statement on the bill.

February 1 - Reported with Committee amendment
February 1 - Recommitted
February 8 - Hearing held - See below
February 15 - Reported by Committee Substitute jointly with S-22

1954 - S-22 - Introduced January 25 by Senator Vogel
No statement on the bill.

February 8 - Hearing held - See below
February 15 - Reported by Committee Substitute jointly with S-7

Laws 1954, Chapter 6 - S-8 - Introduced January 25 by Senators Stout and Dumont
No statement on the bill.

February 1 - Reported with Committee amendment
February 1 - Recommitted
February 8 - Hearing held - See below
February 15 - Reported by Committee Substitute jointly with S-23

S-23 - Introduced January 25 by Mr. Vogel
No statement on the bill.

February 8 - Hearing held - See below
February 15 - Reported by Committee Substitute jointly with S-8

Laws 1954, Chapter 7 - S-9 - Introduced January 25 by Senators Stout and Dumont
No statement on the bill.

February 1 - Reported with Committee amendment
February 1 - Recommitted
February 8 - Hearing held - See below
February 15 - Reported by Committee Substitute jointly with S-22 and 23

S-22 - See above

S-23 - See above

On February 8, 1954 a hearing was held on S-7, 8, 9, 22 and 23:

974.90 N. J. Legis. Senate. Judiciary Committee.
6191 Public Hearing on S-7, 8, 9, 22 and 23
1954a held February 8, 1954. (enclosed)

On February 15 all bills were reported in combined form as indicated above and passed both houses that same day. Governor Mayner signed Chapters 5, 6 and 7 into law on February 20.

Later in 1954, attempts were made to amend the Legalized Games of Chance laws. Some of these bills were proposed by Senators Stout, Dumont & Vogel, sponsors of the original bills which became law.

S-299, S-300, S-301, S-302, S-391, S-392, S-393
S-394, S-395

(See enclosed photostat of Legislative Index for synopsis and action on these bills.)

In 1955 a package of three bills introduced by the same three senators became law.

Chapter 160 - S-303 - Introduced May 9 by Senators Stout, Dumont & Vogel
No statement.

Laws 1955, Chapter 161, S-304 - Introduced May 9 by Senators Stout, Dumont & Vogel
No statement. Amended by Senate during passage.

Laws 1955, Chapter 162 - S-305 - Introduced May 9 by Senators Stout, Dumont & Vogel
No statement.

We are enclosing index sheets indicating newspaper articles on New Jersey gambling which appeared in 1953, 1954 and 1955. We can supply copies of any articles upon request.

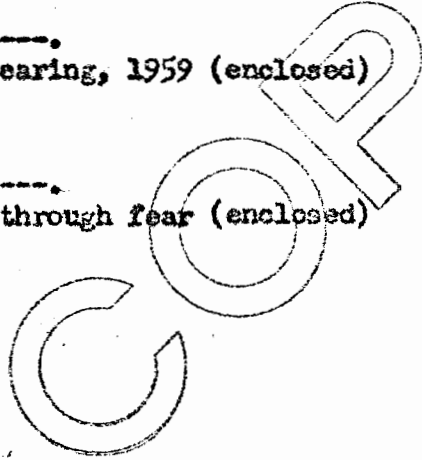
We can also supply copies of the annual reports of the Legalized Games of Chance Control Commission upon request.

In recent years the Commission has been investigated by the Senate:

974.90 N. J. Legis. Senate. Special Committee to investigate
0191 administration of bingo and raffles licensing laws
1958a. by the Legalized Games of Chance Control Commission.
Public Hearing, 1958 (enclosed)

974.90 -----
0191 Public Hearing, 1959 (enclosed)
1959a

974.90 -----
0191 Control through fear (enclosed)
1960a



from Baisden - Charter for New Jersey
(1952) ✓

s of view, debated the advice of the animity of opinion, nise with principle to expediency were caused splits along ban or liberal-con- and the protectors treat. Thus, while among the most im- y were also among

Chapter III

THE PROBLEM OF GAMBLING

The problem of gambling generated more public interest than any other issue faced by the constitutional convention. While it is a troublesome question in most states, it is especially so in New Jersey where it has had a very stormy history. One of the reasons for this is rooted in economic matters. The seashore resort business is one of the most important industries in the state and gambling which attracts tourists has always received strong support in certain parts of the commonwealth. A second factor is geographical. Since New Jersey is sandwiched between the populous centers of New York and Philadelphia, there has frequently been pressure to relax the gambling laws in order to entice dollars across the Hudson and Delaware Rivers. A third reason for the intensity of the controversy may be traced to the nature of the state's population. New Jersey's inhabitants, being a highly diversified group, often find themselves in basic disagreement on such matters as gambling which generate highly emotional conflicts.

The two types of gambling which caused the most trouble in the 18th and 19th centuries were lotteries and betting at race tracks. Lotteries were popular even in colonial days and furnished an important source of revenue for various activities. They were used for the purpose of raising money to finance educational institutions and churches, and to erect public buildings and bridges. Although some legislation was usually on the books prohibiting lotteries, the legislature frequently was prevailed upon to make exceptions in the case of worthy enterprises.¹ Although the Constitution of 1776 had no gambling provision, the framers of the Constitution of 1844 inserted a statement which read:

No lottery shall be authorized by this state, and no ticket in any lottery not authorized by a law of this state shall be bought or sold within the state.²

Horse racing had been fashionable in the state ever since pre-revolutionary times and, although betting on the races was prohibited by law, the prohibition was by no means scrupulously observed.³ The Monmouth track, located near Long Branch, was very popular, and by the 1880's had become one of the most famous in the United States.⁴ Since this track brought much trade to the state's seashore resorts, the state officials were not inclined to enforce the state gambling laws during the summer season at Monmouth. In fact, the legislature was prevailed upon to allow little loopholes in the laws

1. William Starr Myers, *The Story of New Jersey*, (New York, 1945), p. 445.

2. New Jersey Constitution of 1844, Art. IV, Sec. VII, Par. 2.

3. Carl R. Woodward, *Ploughs and Politicks*, (New Brunswick, 1941), p. 83.

4. Edwin P. Conklin, "The Last Half Century in New Jersey Politics," *New Jersey, A History*, (Irving S. Kull, ed.), Vol. III, (New York, 1930), p. 976.

to exempt Monmouth. In the 1880's, enterprising men in other parts of the state decided that there was no reason why Monmouth should have a monopoly, and opened tracks which were operated all year around. The heavy gambling which soon became the rule at these new tracks resulted in the withdrawal of all the legislative countenance which had been extended to betting during the mid-summer meets at Monmouth. The Monmouth track was forced to close, but the newer tracks, which had by this time gained control of the local authorities, were able to continue in operation in open defiance of the law without fear of strict enforcement by the local officials.⁵ This situation was naturally not to the liking of the people of Monmouth, so in 1890 they succeeded in getting the legislature to pass an act which would take the race track betting booths out of the category of "disorderly houses," which, as the law read, were subject to being raided and the inmates jailed and fined.⁶ Hearing of this, opponents of gambling formed an Anti-Race Track League and persuaded the governor to veto the bill.⁷

In 1892, the proponents of gambling saw an opportunity to get race track betting legalized. In the election of that year, they devoted their energies to electing a legislature favorable to their interests. They had gained control of the Democratic Party in the state and they realized that the personal popularity in New Jersey of the presidential candidate, Grover Cleveland, would be sufficient to insure the election of whomever that party chose to run for the legislature. As a result,

Everything that was uncanny in Democratic politics had been tossed into the bosom of the flood, and the legislative salvage of the sweeping tide was as unsavory as it could be. The gangs that controlled the cities, the upstart bosses who ruled counties, the public plotters, schemers and corruptionists, had seen their opportunity, and launched their confederates and henchmen and fellow-conspirators on the stream with the assurance that the drift would safely bear them to port.⁸

Sure enough, an impressive Democratic majority was elected to the state offices, and in 1893 what came to be known as the "Jockey Legislature" or "Horsey Legislature" met and organized. A race track starter was elected Speaker of the Assembly and the law-makers at once set to work to abolish the ban on betting at horse races. Three bills were rushed through the legislature. One permitted the authorities of a county or municipality to license a race track located within its limits, a second provided that race tracks where bets were made did not come under the category of disorderly houses, and a third imposed the lightest of fines upon those who violated the anti-gambling laws then on the statute books. All three of these bills being vetoed by the governor, the legislature quickly re-enacted the bills over his veto before the anti-gambling forces had an opportunity to protest. The owners

5. William E. Sackett, *Modern Battles of Trenton*, (Trenton, 1895), p. 384.

6. *Ibid.*, p. 386.

7. Conklin, *op. cit.*, p. 977.

8. Sackett, *op. cit.*, p. 440.

of the tracks immediately secured licenses from the local authorities so that gambling could be carried on virtually without restraint.⁹

The opponents of gambling, led by Protestant ministers, now began to organize. Anti-gambling leagues were formed all over the state which urged repeal of the laws. In a demonstration held in Trenton, five thousand persons marched to the State House and took possession of the Assembly chamber. Despite their efforts, the law-makers stood fast and refused to make any concessions.¹⁰ In the meantime, the dishonesty at the tracks and the incident of immorality and political corruption turned the public more and more against gambling. By the time the 1893 election came up, public resentment over the "Horsey Legislature" had reached tremendous proportions. The Democratic victory of 1892 was nothing compared with the Republican landslide of 1893. Never in the history of the state have the voters so overwhelmingly repudiated their legislators. In the House of Assembly where the entire membership was elected each year, the proportion of 39 Democrats to 21 Republicans was now exactly reversed. In the Senate, where only one-third faced election yearly, there was a change from 16 Democrats and 5 Republicans to 10 Democrats and 11 Republicans.¹¹

The "Horsey Legislature" was not to be turned out of power that easily, however. When the day came for the Legislature of 1894 to meet, the Democratic members of the Senate who were holdovers from the previous session decided on a scheme whereby they could refuse to permit the newly-elected Republicans to take their seats. They contended that since the Senate was a continuous body, the holdover members could pass on the eligibility of the new members. Hence, eight of the Democratic holdovers met a bit earlier than usual, organized, and informed the Democratic Governor that the Senate was in session. He turned his annual message over to them. At the usual hour, the Republicans arrived only to find that a committee on credentials was to be named which would examine the credentials of the new men and that they would be barred from taking their seats until such time as the committee cared to make a report. Undaunted, the Republicans went into another room and organized themselves. Thus, "to the amusement of the world at large, Jersey was compelled to sit and twiddle her thumbs while two Senates, one of which had the recognition of the Governor, and the other of the Assembly, argued as to which was the lawful body."¹² Finally after a couple of months, the State Court of Errors and Appeals held that the Senate was not a continuous body and that the new members were entitled to their seats.¹³ One of the first acts of the Republican-dominated legislature was to repeal the race track legislation passed the year before.

Not satisfied with mere legislative repeal, the opponents of gambling resolved that a drastic anti-gambling provision should be inserted in the con-

9. Conklin, *op. cit.*, p. 977-8.

10. Sackett, *op. cit.*, p. 450.

11. Conklin, *op. cit.*, p. 978.

12. *Ibid.*, pp. 979-980.

13. Myers, *op. cit.*, p. 281.

stitution. After being passed by two successive legislatures, a proposed amendment was submitted to the people in 1897. Despite the strong support given to the amendment by the churches, and with neither party daring to oppose it, the provision was still only approved by a scant majority of 801 in a total vote of 140,000.¹⁴ The amendment read:

No lottery shall be authorized by the legislature or otherwise in this state, and no ticket in any lottery shall be bought or sold within this state, nor shall pool-selling, book-making or gambling of any kind be authorized or allowed within this state, nor shall any gambling device, practice, or game of chance now prohibited by law be legalized or the remedy, penalty, or punishment now provided therefor be in any way diminished.¹⁵

This provision remained in the constitution until 1939 and, although it was not strictly enforced and in fact some kinds of gambling continued "under cover and on a grand scale,"¹⁶ it did have the effect of dampening the gambling controversy for over three decades. When that controversy again broke out in the 1930's, it became as entangled with the dispute between the major political parties as it had in the 1890's. Thus, if we are to understand the recent history of the gambling controversy, it is imperative that we review the political scene as it existed in 1930.

Mayor Frank Hague of Jersey City, who was also the leader of the Democratic Party in New Jersey, was at the peak of his power in the early 1930's. He had frequently been successful in getting Democrats elected as governor and had even managed to get along pretty well with Republican incumbents. Finally, in 1934, a group of Republicans in Essex County, the largest county in the state, broke with the regular Republicans. Under the name of the Clean Government Group, they charged that collusion existed between the leaders of their party and the Democrats. They were led by the Rev. Dr. Lester H. Clee, a Newark clergyman and Arthur T. Vanderbilt, who was one of the leading attorneys in the state, the Essex County Republican leader and Dean of the New York University Law School. During the next three years, they openly criticized Republican Governor Hoffman who led the Old Guard Republicans in opposing their movement. They accused the governor of joining forces with Mayor Hague in passing an ill-fated sales tax and of other undercover deals. By 1937, the Clean Government Group had become sufficiently strong to secure the selection of Clee in the Republican primaries as candidate for governor. However, Clee was defeated by his Democratic opponent, A. Harry Moore, in the general election.¹⁷

In 1937 the Democrats in the legislature had, with the aid of the old guard Republicans succeeded in passing a resolution for a constitutional amendment, which would modify the anti-gambling article inserted in 1897,

14. Conklin, *op. cit.*, p. 978.

15. New Jersey Constitution of 1844 as amended in 1897, Article IV, Section VII, Paragraph 2.

16. *New York Times*, June 22, 1939, p. 22.

17. *Ibid.*, February 18, 1940, IV, p. 6.

so as to permit pari-mutuel betting at race tracks within the state. This was passed over the opposition of the Clean Government legislators and their allies.¹⁸ The resolution was again passed in 1938,¹⁹ and having received the approval of two successive legislatures, was now to be set before the voters of the state at a special election in 1939.

This election proved to be one of the most hotly-contested in the history of the state. As was inevitable, the question of whether or not pari-mutuel betting should be authorized was completely entangled with the political controversies then raging. Mayor Hague and the Democratic leaders reinforced by the Hoffman Republicans—especially those from resort areas—put themselves at the head of the campaign to secure the adoption of the amendment. To drum up enthusiasm in Hudson County, they held an enormous rally at which 20,000 spectators were entertained by a band, an orchestra, singers, dancers, a fireworks display and speeches. Hague's arguments in favor of the amendment received wide publicity within the state. He declared that New Jersey would gain about \$5,000,000 annually from the pari-mutuel machines as the state's portion of the "take." He predicted that the tracks would provide work for 6,000 unemployed, that real estate values would be doubled in communities having tracks, and that business would be stimulated since hundreds of thousands of people would be attracted to the state; in short, pari-mutuel betting would be a panacea for whatever ailed the state.²⁰ Probably his most telling argument was that if the new revenue which pari-mutuel could bring to the state treasury were not secured, the danger that the state would be forced to impose an income tax "becomes greater and greater."²¹

Leading the opposition to the amendment was Hague's arch-enemy, the Rev. Dr. Clee and the Clean Government Republicans. They incorporated the State Association to Defeat the Race Track Gambling Amendment²² and rallied to their support ministers, Protestant church groups²³ and such other organizations as the State Chamber of Commerce, the Grange, the New Jersey Federation of Women's Clubs, the New Jersey Council of Parents and Teachers and the League of Women Voters. Clee contended that he wanted to save the state from the recurrence of the race track scandals of the 1890's and that approval of the amendment would "give Mayor Hague new dictatorial powers" and would "place him in complete and absolute control of a new gambling industry." Clee charged that Hague's talk of an income tax was "an attempt to intimidate business men into support" of the amendment.²⁴ Other opponents of pari-mutuel objected to Hague's inflated predictions of possible revenue for the state and of increases in employment and real estate values. They also declared that business generally with the

18. *Ibid.*, February 25, 1937, p. 8; March 23, 1937, p. 26.

19. *Ibid.*, May 24, 1938, p. 1.

20. *Ibid.*, January 10, 1939, p. 36.

21. *Ibid.*, June 16, 1939, p. 14.

22. *Ibid.*, January 19, 1939, p. 11.

23. In general the Catholic clergy did not take a stand on this issue.

24. *New York Times*, June 18, 1939, p. 9.

exception of restaurants and hotels would suffer from the adoption of the amendment.²⁵

Thus the gambling issue was clouded by the personal contest between the Hague and Clee forces. Hague charged that his opponent was using the issue to further his ambition to secure the gubernatorial nomination again in 1940. He further declared that the people backing Clee were the ones who "forced prohibition upon us" and that defeat of the amendment would be used as an "opening wedge for a concerted drive to again impose prohibition upon this country." Clee retorted that "it is the fight of the masses of independent free men and women against the racing crowd and the Jersey City mayor." As the day approached for the referendum, the *New York Times* found that the issue was so confused with politics that the referendum was to be a "veritable preview of the gubernatorial contest of 1940."²⁶

Despite the bitterness of the contest, the vote at the special election was comparatively light. Pari-mutuel betting at race tracks was approved by a vote of roughly 3 to 2. The results were disappointing to the opponents of the amendment even in counties where Hague's influence counted for little. The *New York Times* after studying the returns found that despite the extraneous factors that entered into the contest, the final vote showed that "plainly more people are coming to believe that a social practice which cannot be successfully prohibited should be regulated by the state under the most honest methods that can be devised."²⁷ The Democrats regarded the referendum as a victory for their party and Mayor Hague couldn't resist the temptation to retort, "It is evident from the result that the people of this state want the church to remain out of politics."²⁸

The amendment added to the old gambling provision of the constitution these words:

It shall be lawful to hold, carry on, and operate in this State race meetings whereat the trotting, running or steeplechase racing of horses only may be conducted between the hours of sunrise and sunset on weekdays only and in duly legalized race tracks, at which the pari-mutuel system of betting shall be permitted.²⁹

The hope that the insertion of this provision in the fundamental law of the state would end the gambling controversy for a time was not realized. It was now necessary to set up a state racing commission before tracks could be approved and constructed. This task became entangled in the gubernatorial contest of 1940. The Clean Government Group, still smarting from its defeat at the hands of the coalition of Democrats and Old Guard Republicans in the referendum, again selected its own candidates for governor, Robert C.

25. *Ibid.*

26. *Ibid.*

27. *Ibid.*, June 22, 1939, p. 22.

28. *Ibid.*, June 21, 1939, p. 1.

29. New Jersey Constitution of 1844, as amended in 1939, Art. IV, Sec. VII, Par. 2.

Hendrickson. Hendrickson soon indicated that he intended to make "Hague-Hoffmanism" a major campaign issue.³⁰

This feud manifested itself in the legislature with each side proposing its own plan for a racing commission. The Clean Government organization sponsored a bill which would provide a commission composed of three Republicans and two Democrats to be selected by the Republican Legislature. The Hoffman Republicans and the Democrats favored a bi-partisan commission of four members to be selected by the Democratic Governor. Finally the day came for the Assembly to vote on the two proposals. The Clean Government bill was voted on first and was defeated. Then, rather than go ahead and hold a vote on the Hoffman-Hague plan, the Speaker of the Assembly, a Clean Government man, ordered a recess, went back to his office and staged a four hour sit-down strike. At 1:00 A. M. the Speaker then returned to the Assembly room and declared an adjournment. This move so enraged the Democrats and Hoffman Republicans, who numbered one more than a quorum of thirty-one, that after the Clean Government legislators had left the Assembly room, they elected a temporary speaker and held an all-night rump session. This rump session passed the bill providing for a bi-partisan commission on first and second reading and voted to make its consideration on third and final reading the special order of business at the next meeting, "any rulings by the regular speaker to the contrary notwithstanding."³¹ This action assured the passage of the bill, and another round in the gambling bout was ended.

Within the next few years four race tracks at which pari-mutuel betting was authorized were established in the state. They proved very popular and in the year 1947, over 1,700,000 fans bet more than \$158,000,000 during the state's racing season. In addition, racing rapidly grew to become an important source of revenue for the state treasury. In 1947 over \$7,500,000 accrued to the state to bring the total since 1941 to nearly \$23,000,000.³² This revenue was made even more popular by the fact that at the end of World War II, it was pledged to the retirement of state bonds issued to finance veterans housing projects. During the years from 1941 to 1947 controversies frequently arose concerning what percentages of the "take"³³ and the "breakage"³⁴ should go to the state. The original division of the ten per cent "take" so that the state received four per cent while the tracks took six per cent was soon deemed unsatisfactory and was changed in 1947. Although there was much objection to the fact that the tracks had been permitted to keep the breakage during the first years of their operation,³⁵ efforts to alter this situation were partially frustrated by the nimble footwork

30. *New York Times*, February 18, 1940, IV, p. 6.

31. *Ibid.*, February 14, 1940, p. 17.

32. *Atlantic City Evening Union*, December 31, 1947, p. 1.

33. "Take" or "takeout" is the percentage of each dollar bet by race-goers which is kept by the track and the state.

34. "Breakage" is an effort to avoid the trouble of paying off in odd cents by rounding off the figure for convenience.

35. *Atlantic City Evening Union*, April 16, 1947, p. 1.

of friends of the tracks in the legislature.³⁶ Many protests were heard especially in the spring of 1947 when it was reported by North Jersey newspapers that Senator Frank S. Farley of Atlantic County had received \$20,000 from the Atlantic County Racing Association for his successful effort to defeat a legislative measure which would have turned the bulk of the 1947 "breakage" over to the state.³⁷ One paper voiced the concern of many observers when it reported that:

After only a few years of operation, the race track interests are so deeply entrenched that they are the masters of the situation. The history of the last legislative session has proved this to be the case.³⁸

In the meantime, there had been considerable controversy over types of gambling other than betting at horse races. The courts had ruled that under the gambling provision of the constitution, bingo, raffles and other games of chance were unlawful. After 1939 this put the state in the incongruous position of legalizing horse race betting, and taking a large share of the proceeds therefrom while at the same time prohibiting games of chance sponsored by religious and fraternal organizations for charitable purposes. Naturally the prohibition was honored more in the breach than in the observance, and usually with the full knowledge of law enforcement officials. Nevertheless, many organizations disliked the fact that they were frequently put in the position of being lawbreakers and were most anxious to get the constitutional ban lifted. Protestant ministers, on the other hand, opposed this desire and frequently complained to the local authorities about the violations.

This was the status of the gambling controversy when the New Jersey Constitutional Convention of 1947 set about revising the state's fundamental law. It was obvious that gambling was slated to be one of the most difficult issues with which the delegates would have to deal. From the standpoint of fundamental law, gambling is theoretically not of much importance and, indeed, there are a great many who say that the subject has no place at all in a constitution. The "model" constitutions do not mention it. This did not, however, alter the fact that gambling had long been an important constitutional issue in New Jersey and had been the subject of two of the four amendments to the state's constitution between 1875 and 1947. Thus, whether it was a constitutional matter or not, the situation in New Jersey in 1947 was such, and the feeling connected with the gambling controversy was so intense that the way in which the convention dealt with the issue could very easily have harmful effects on the success of the whole revision effort.

For this reason, the Committee on the Legislative was not overjoyed to hear that it would have to wrestle with the problem. The committee was fairly evenly balanced as between various points of view on gambling. The chairman was the able state senator from Hudson County, Edward J. O'Mara.

36. *Trenton Evening Times*, June 18, 1947, p. 10.

37. *Atlantic City Evening Union*, April 19, 1947, p. 2.

38. *Trenton Evening Times*, July 29, 1947, p. 6.

As a member of the Hague machine which had sponsored the pari-mutuel amendment and as a delegate from Hudson County where the pressure for bingo playing sponsored by the Catholic Church was great,³⁹ it was easy to see where the Senator's inclinations would lie. The secretary of the committee, Leon Leonard, was from Atlantic County and shared the lenient attitude toward gambling usually held by officials from that county. On the other hand, the more conservative position on gambling received strong support from other equally able members of the committee, so it was certain that whatever decision the committee arrived at, it was sure to be the result of much thought, discussion and debate.

More public interest was aroused by this issue than any other before the convention. This was proved to the committee by the fact that about thirty witnesses came before it to give their views in the public hearings. Approximately half of the witnesses wanted the gambling provisions liberalized while the others desired that gambling be further restricted or eliminated altogether. The newspapers referred to the controversy as the battle between the Protestant ministers and the veterans, charitable and fraternal organizations.

Most of those who asked to have the gambling provision made more liberal were the representatives of organizations which had been accustomed to making money by holding bingo parties, raffles, carnivals and lotteries. They included such veterans organizations as the Veterans of Foreign Wars, the Disabled American Veterans Department and the Catholic War Vets.⁴⁰ Representatives of the Catholic organization, the Holy Name Society, also appeared. They were supported by such fraternal groups as the Loyal Order of the Moose, the Elks and the Fraternal Order of the Eagles. Spokesmen for all of these groups held that gambling is not morally wrong. They insisted that their organizations were dependent upon various forms of gambling as an important source of revenue, and pointed to the fact that their income was often spent for charitable purposes. Often stressed by them was the hypocrisy of allowing such big time gambling as betting at horse races while at the same time prohibiting gambling for charitable purposes. On the whole this group favored having the problem settled by a constitutional provision but were willing to have the question of what provision should be incorporated presented to the people in a referendum.⁴¹

Most of those who appeared before the committee to oppose this view were Protestant ministers or representatives of Protestant church organizations. On the whole, they took the position that any type of gambling is morally wrong and that it is not any the less bad because it is connected with a church or charity. While they were agreed on what they wanted, they were divided on how it should be attained. Some said that gambling was not a proper subject for inclusion in the constitution and hence the

39. *Ibid.*, July 17, 1947, p. 1.

40. Other veterans organizations sent resolutions to the committee.

41. Committee on the Legislative, *Record of Hearings*, p. C2-5-(1B-16B), p. C2-6-(10B-28B).

whole matter should be placed in the hands of the legislature. Others took the position that all gambling should be outlawed by constitutional mandate.⁴²

These two types of organizations were the only ones whose views on gambling were presented to the committee. Most of the rest of the interest groups in the state took no stand on the issue. This was true of the New Jersey Committee for Constitutional Revision which was composed of some of the most active groups in the state.⁴³ The racing associations apparently were confident that their interests would be well safeguarded as they sent no representatives to speak for them and distributed no literature to the delegates. Their overt lobbying activities were restricted to sending free track passes to the delegates.

Both the groups which favored and those which opposed gambling were large and powerful. Since they both took the matter very seriously, the successful passage of the new constitution could be endangered if either side were alienated. It was a difficult decision for the committee to make. There were five main alternatives from which it could choose. First, it could follow the recommendation of many Protestant groups and insert a clause prohibiting all gambling. This, however, would incur the displeasure of friends of the race tracks and of the veterans, Catholic and fraternal organizations which wanted the legalization of games of chance for charitable purposes. The majority of the committee opposed this possibility due to the fact that only eight years before in 1939 the people had shown that they wanted pari-mutuel betting and it did not seem reasonable to disregard this mandate,⁴⁴ especially since it was generally agreed that there was no widespread demand for the elimination of pari-mutuel betting.

A second possibility which the committee could adopt was that, as some Protestant groups asked, gambling be left out of the constitution completely. The majority did not accept this because it was felt that since a gambling provision had been inserted in the state's fundamental law for so long, people might think that eliminating it now could be a go-ahead signal for the legislature to legalize all kinds of commercial gambling.⁴⁵

Third, the suggestion of those who favored the legalization of games of chance for charitable purposes could have been acted upon by liberalizing the old gambling clause to permit bingo playing, raffles, etc. The inclusion of this suggestion would have resulted in the opposition to the constitution by many Protestants.

A fourth alternative would have been to retain the present provision. This would have continued a situation which was to say the least, ambiguous.

Fifth, the committee could have adopted some method whereby the convention would not have to make the final decision but could permit the voters to decide this controversial issue.

In view of the sharp conflict between the opposing positions and the realization that any definite stand taken by the convention would incur the

42. *Ibid.*, p. C2-5-(27A-22B), p. C2-6-(7B-33B).

43. *Ibid.*, p. C2-5-43B.

44. Committee on Legislative, *Report*, p. 9.

45. *Ibid.*, p. 9.

displeasure of powerful groups in the state, it is no wonder that the Committee chose the fifth course of action. In its tentative draft of its report to the convention, it proposed that two alternatives be presented to the voters apart from the main body of the constitution, and that at the same time that the people voted on the constitution, they be permitted to approve of either of the two alternatives. The alternative which received the most votes would become the gambling provision of the new constitution. Alternative "A" was the same clause as existed in the old constitution, banning all gambling but pari-mutuel betting. Alternative "B" liberalized the old clause by providing that "the legislature may authorize and regulate the conduct of games of chance by bona fide charitable, religious, fraternal or veterans associations or organizations."⁴⁶ Senator O'Mara explained that the committee favored the submission of alternative proposals instead of recommending one clause because "we realized that many thousands of people would cast their votes one way or the other on the question of the adoption of this constitution on the gambling clause alone" and thus a plan was desired "which would allow the people to vote on the constitution on its merits regardless of their views on gambling" and then have a separate referendum on this issue.⁴⁷

The public reception of this tentative proposal of the committee was not very favorable. While almost everyone praised the theory of submitting alternatives to the voters as the most practical solution, there were two main objections which were made to these particular alternatives. The first was that the alternatives as phrased gave the voters the option of voting either for "legalized gambling" or "more legalized gambling."⁴⁸ Some political leaders, many newspapers and the Protestant clergy asserted that if alternatives were to be presented, the public should at least be able to vote against all gambling also. The second objection, which was almost unanimously voiced, was that the alternative "B" as worded was too vague. The Attorney General of the State declared that "the adoption of this alternative with the verbiage which is in here now will be nothing more or less than the opening of the doors for wide open, legalized, commercialized gambling." He based this conclusion on the broad interpretation which might be made of the phrases "games of chance" and "bona fide charitable . . . organization."⁴⁹

This unfavorable reaction to the proposal of the committee left that group in a quandary. The storm which their suggestion had created at least re-emphasized the intensity of the feeling on this issue. Governor Driscoll noticed the same thing and he began to fear that the dispute might wreck the revision effort. As a result, he called on both sides in the controversy to "isolate this emotional issue so that it may be considered on its merits in another election." He favored the retention of the old gambling provision for the first year until the voters could be permitted to decide on whether or not they desired to liberalize it by means of a constitutional amendment.⁵⁰

46. Committee on the Legislative, Tentative Draft of Legislative Article, p. 10.

47. Proceedings of the N. J. Constitutional Convention of 1947, mimeographed, p. 14-47.

48. *Newark Evening News*, July 28, 1947, p. 1.

49. Committee on the Legislative, *Record of Hearings*, p. C2-7-(2A-8A).

50. *Atlantic City Evening Union*, July 31, 1947, p. 1.

After much discussion, the committee decided to keep the same two alternatives but with some modifications in alternative "B." It now stated that the legislature could authorize and regulate "specified games of chance" provided that the proceeds should inure entirely to the benefit of the sponsoring organizations. It also provided for local option before the games of chance could lawfully be carried on in any municipality.⁵¹ With this as the final proposal of the committee, the gambling problem was now taken up by the convention as a whole.

As the time drew near for the convention to debate the issue, a new obstacle arose to the submission of alternatives. The act of the legislature which authorized the holding of a convention and set forth its procedure and limitations, stated that:

The convention may frame a constitution to be submitted as a whole to the people for adoption or rejection; or it may frame one or more parts of a constitution, each to be so submitted to the people that they may adopt or reject any part and, if the convention so determines, it may also frame one or more parts to be submitted in the alternative in order that the people may adopt any of the alternatives or reject any or all of them.⁵²

The Attorney General notified the convention that it was his opinion that according to this part of the act, alternatives might not be submitted to the people unless the proposed constitution were submitted in parts. While there was much disagreement with this interpretation, many delegates did not want to risk having the new constitution become entangled in the courts because of an alleged violation of the enabling act.⁵³

The gambling issue received more debate on the floor of the convention than any other single provision of the constitution. The first amendment to be offered to the committee proposal was one introduced by the vice president of the convention, Amos Dixon. This amendment would remove all mention of gambling from the constitution and would leave the whole matter in the hands of the legislature. Mr. Dixon said that his amendment was supported by the State Federation of Churches and the New Jersey farm organizations.⁵⁴ Supporters of this amendment were of the opinion that gambling was not a proper subject to be mentioned in the constitution and that the legislature could be trusted to deal with it capably. They opposed the alternatives as proposed by the committee because they felt that with them the people who opposed all gambling had no alternative other than to vote against the constitution as a whole.⁵⁵

There was considerable opposition to this amendment. It is rather amusing to examine the reasons given for this opposition. The Hudson County Democrats, led by Senator O'Mara and Mayor Eggers declared that it was

51. N. J. Constitutional Convention, Committee Proposal No. 2-2.

52. State of New Jersey, Laws 1947, Ch. 8, Special, State Constitutional Convention, par. 23.

53. Proceedings, *op. cit.*, p. 11-23B.

54. *Ibid.*, p. 11-11B.

55. *Ibid.*, p. 13-(9A-22A).

dangerous to leave this problem exclusively in the hands of the legislature. They pointed to the possibility that there might be a recurrence of the scandals of 1893⁵⁶ and Senator O'Mara in an impassioned speech prophesied that if

the legislature were subjected year in and year out, as they would be, to all kinds of pressure with regard to gambling, there would be nothing to prevent some legislature twenty years from now or thirty years from now from making of New Jersey an American Monte Carlo.⁵⁷

Thus, the reason that they gave for opposing the Dixon Amendment was that the legislature might be too liberal in meeting the demands of the gambling fraternity. Actually, however, they opposed it because they feared that the legislature would not be liberal enough to authorize the charity gambling for which the people of Hudson were "clamoring." Senator Farley of Atlantic County was also at the forefront of the opposition to the Dixon Amendment. Pointing out that the revenue derived from race tracks was pledged to the retirement of veterans housing bonds, he argued that deletion of the constitutional authorization of pari-mutuel would impair the security of the bonds and invite "vexatious litigation."⁵⁸ It was obvious to all that what vexed the Senator was that the racing interests would lose their constitutional security if the whole matter were placed in the hands of the legislature. Farley pointed out that "the people who have been bitterly opposing any type of gambling have been the sponsors of this amendment."⁵⁹

The Dixon Amendment was decisively defeated. Its main support came from the delegates from Essex County, where the Clean Government Group had retained its opposition to gambling in any form. This would seem to indicate that they had confidence that the legislature could be counted on to be responsive to the wishes of the opponents of gambling.

In the meantime many delegates were beginning to look with favor on an amendment introduced by Senator Arthur Lewis. This amendment would substitute in place of the two alternates proposed by the committee the phrase:

No gambling of any kind shall be authorized by the legislature unless the specific kind and control thereof has been heretofore submitted to and authorized by a majority of the votes cast by the people at a general election.⁶⁰

The Lewis Amendment was quickly recognized to be a compromise which could be accepted by all sides. Its proponents pointed out that while not mentioning pari-mutuel betting specifically, it clearly continued constitutional countenance of that form of gambling. It did not itself liberalize the

56. *Ibid.*, p. 13-15A.

57. *Ibid.*, p. 11-14B.

58. *Ibid.*, p. 13-46A.

59. *Ibid.*, p. 13-51A.

60. Amendment No. 15 to Committee Proposal 2-1.

gambling restriction to permit charity gambling so that it would not alienate the Protestant groups. It did, however, provide a method whereby new games of chance could be permitted so that bingo proponents were offered a ray of hope. It complied with the request of the Driscoll Administration to put off the final decision on the controversial issue until another election, and finally got around the confusion and legal difficulties inherent in the committee's plan to submit alternatives. Finally, it met the fears that the legislature could be corrupted by making the people the final judge of how far the gambling laws should be relaxed. Senator Lewis summed up the arguments by saying:

This proposal would make possible the submission of our proposed constitution to the people without alternatives or controversial provisions relating to the subject of gambling, and without requiring the people to vote for gambling or more gambling, and without fear that the legislature may in itself extend or permit gambling.⁶¹

Those who had favored the Dixon Amendment now transferred their support to this compromise. The only opposition to it came from some of the Democrats. The Hudson County leaders were not optimistic about the willingness of the legislature even to give the people an opportunity to vote on the legalization of bingo and other games of chance.⁶² In addition, they pointed out that while the committee's plan to submit alternatives would permit authorization of bingo in the November election, under the Lewis proposal there would be at best a year's delay before the people would have a chance to vote.⁶³

The Lewis Amendment was adopted by a vote of 66-12. All of those who opposed were Democrats. Apparently, however, the Hudson County leaders did not take their defeat too seriously for shortly thereafter Senator O'Mara commented that he was satisfied with the work of the convention thus far.⁶⁴ In an attempt at least to get the convention on record as favoring the submission to the people of a proposal for permitting charity gambling, Mayor Eggers proposed a memorial requesting the legislature to consider the enactment of legislation permitting the playing of games of chance or bingo by specified organizations and to submit such legislation to the people at the general election of 1948. This memorial was adopted unanimously by the convention.⁶⁵

This compromise by the convention was generally received with a feeling of relief on all sides that such a difficult issue had been so successfully evaded. It was indeed a clever way to keep from being impaled on either horn of the dilemma. The Protestant Church groups gave their support to the new constitution,⁶⁶ as did the Hudson County Democrats and the charity

61. Proceedings, *op. cit.*, p. 14-30.

62. *Ibid.*, p. 14-38.

63. *New York Times*, August 15, 1947, p. 36.

64. *Newark Star Ledger*, August 16, 1947, p. 1.

65. Proceedings, *op. cit.*, p. 15-90.

66. *Newark Evening News*, September 20, 1947, p. 6.

gambling proponents. Nowhere were there any violent objections raised to the new gambling provision.

The fact that this decision by the delegates was just a mere truce in the battle was shown by the declaration by the Essex County Clean Government organization that while supporting the constitution, it would not be bound by the memorials⁶⁷ and in particular would oppose legislation permitting a bingo referendum to go on the ballot.⁶⁸

From many different standpoints the treatment of the gambling problem is an interesting study. Undoubtedly there were a great many other issues relative to good government in the state that were far more important. Few of the other issues, however, had so many aspects. To the Protestant churchmen, it was a moral issue which ought to be decided on moral grounds. To others it was an economic matter of how best to finance fraternal organizations, secure the success of the race tracks, furnish revenue for the state and pay off the veterans housing bonds. To others it was simply a matter of logic and fair play that the hypocrisy of banning charity gambling while permitting horse race betting be eliminated. However, for those who realized the intensity of feeling on the issue and who were primarily interested in the success of the convention—and most of the delegates were—it was above all a political problem. While a constitutional convention is capable of making a decision on most such problems, gambling is one for which it is singularly unsuited. The extent to which gambling should be permitted can not be set forth by any expert opinion. The gambling problem in New Jersey is unique in that nearly every citizen has a firm conviction in connection with it and compromise is difficult as between those who consider it a moral issue and those who do not. A temporary solution can only be found as the result of a contest between the comparative emotions of the people of the state and from the standpoint of the success of the constitutional convention, those emotions should not be brought into play in connection with the referendum over the adoption of a new constitution. Thus it was that the delegates accepted neither the moral arguments of the Protestant ministers, the logical arguments of the realists who decried the hypocrisy of the present gambling situation, nor the economic arguments of the fraternal and church organizations, and instead resorted to the old political technique known as "passing the buck."

67. *Ibid.*, September 10, 1947, p. 5.

68. *Ibid.*, October 14, 1947, p. 2.

The simple argument to let the people decide the issue or issues, however complex, would abdicate the responsibility of the elected representatives of the citizens. If carried to its logical conclusion, the argument that the people should decide all difficult issues would require the abandonment of our representative form of government.

The argument provides an easy and conscienceless way of tossing problems back into the laps of our constituents. It represents an easy out for those who look upon public office as little more than a stepping stone to personal popularity. Our responsibilities must not rest on so mean a level, nor will our principles of constructive service to the citizens of this State be satisfied by submitting a proposition to the voters which we know to be bad and which our experience has taught us to recognize as an economic time-bomb. There are, of course, occasions upon which basic issues properly should be submitted to the citizens for their approval. The submission, however, presumes that the proposal or the legislation for which an endorsement is sought is technically sound and, in addition, the principle or principles involved are readily understandable. In other words, the issue submitted should be basic. Our citizens generally should not be asked to assume responsibilities that are legislative in character.

While reasonable men may differ upon the basic issue, none can deny that this is an occasion for those in places of public responsibility to provide the guidance which they believe to be right.

The proposal to submit the issue contemplated by Senate Bill No. 26 to our citizens in November, 1952, involves more than an expression of approval or disapproval of the "operating and conducting of games of chance of, and restricted to, the specified kind commonly known as bingo or lotto, . . .".

The Constitution, in Article IV, Section VII, provides "no gambling of any kind shall be authorized by the Legislature *unless the specific kind, restrictions and control thereof* have been heretofore submitted to, and authorized by a majority of the votes cast by, the people at a special election or shall hereafter be submitted to, and authorized by a majority of the votes cast thereon by, the legally qualified voters of the State voting at a general election." (Emphasis ours.)

Senate Bill No. 26, therefore, authorizes a referendum in which our citizens are asked to vote for or against the bill itself. If adopted, the bill would become the charter or constitution for the undefined "games of chance" purported to be authorized therein. Despite the fact that most of our citizens would undoubtedly assume they were voting for or against bingo, presumably the kind of bingo with which they may be familiar, Senate Bill No. 26 in section 22, page 8, line 3, states: "If you favor making the *act* entitled below operative within the State, make a cross (X), plus (+) or check (✓) in the square opposite the word 'yes.'" (Emphasis ours.) There is a similar opportunity for those wishing to vote against making the act "operative." The Constitution and the specific provisions of the bill therefore require a careful scrutiny of every feature of the proposed law.

Even if we assume that we are in favor of bingo or lotto, we are now compelled to determine whether or not the proposed charter, namely, Senate Bill No. 26, authorizing a new, questionable and highly controversial undertaking, would provide the kind of bingo that is desired. Is the proposed charter (Senate Bill No. 26) reasonably designed to protect the general welfare of our citizens?

The measure is loosely and unskillfully drawn. A member of the Legislature reports "it was thrown together." While the bill has the outward appearance of craftsmanship, careful study of the bill discloses inherent fundamental defects that confirm the legislator's report.

The bill fails to comply with the Constitution. Article I, Paragraph 4, provides: "There shall be no establishment of one religious sect in preference to another; . . ." This bill proposes to grant a preference to "churches or congregations of Christians or Jews or religious societies associated therewith." In addition, it grants similar privileges to an undefined number of veterans', charitable, educational, fraternal, volunteer and rescue organizations and associations. No matter how small the religious sect may be, it is entitled to the full protection of our Constitution. We should not now establish a bad precedent. If this bill became a law and were challenged in the courts, this defect could be fatal.

The bill fails to comply with the provisions of Article IV, Section VII, Paragraph 2, of the Constitution. The expressed language of the Constitution plainly vests the

power to decide the basic issue in the voters of the entire State. In view of the nature of the subject, the precedent of pari-mutuel betting and the history of the gambling clause at the Constitutional Convention, it is apparent that the Constitution contemplates uniformity of laws and regulations throughout the State in the event that "gambling of any kind shall be authorized by the Legislature."

The whole concept of regulating "games of chance . . . commonly known as bingo or lotto" under Senate Bill No. 26 assumes the possibility of as many different forms of regulation, restriction and control as there are municipalities in the State. The bill says in effect to the various municipal officials—The State gives its blessing to "games of chance" of "the specific kind commonly known as bingo or lotto," now you decide how you are going to control it. It is left to the municipal officials to give definition to all the fuzzy terms employed in the bill, to determine who shall run the games and where they shall be played, and under what circumstances and during what hours, except Sundays, to decide how to keep out the undesirable element and police the entire venture. This is clearly contrary to the intent of the Constitution.

Local option is certainly a desirable principle, and it has a long tradition of use in this State. I firmly subscribe to its desirability. But local option does not relieve the Legislature of its constitutional responsibility to prepare a law which is complete in itself and which leaves only its operation contingent upon a local referendum. Senate Bill No. 26 would turn over almost the whole task of law-making to the local governments. So far as I know, no one has ever successfully contended that the gambling laws should be different in each municipality. At the moment, we are considering bingo. We should not, however, forget that the governing constitutional provision covers all "gambling."

Under the expressed provisions of Senate Bill No. 26, the "restrictions and control" of bingo are vested in the local governing body and there is no way of telling in advance what regulations will be adopted. The Constitution, however, requires that the "restrictions and control" be authorized by the voters of the entire State. The delegation of the task to municipal government is patently inconsistent with the decision of the question by the voters of the entire State. Our courts have held that where the Legislature has authority to submit a proposition to the voters

of a particular municipality, no independent will may intervene between the Legislature and the action of the municipal electorate. It follows that where the Constitution requires the subject matter of gambling to be decided by the voters of the entire State, no Legislature can delegate to the voters of a single municipality or its governing body the power to intervene between the completion of the State legislation and the vote of the State-wide electorate.

The operation of the bill, and its restrictions and controls, would depend upon independent and diverse action in the various municipalities. This may be a desirable policy, but unfortunately it is in direct conflict with the constitutional provision that gambling may be authorized by a majority vote of the legally qualified voters of the State voting at a general election. Where the Constitution intends to vest legislative power in municipalities, it does so by specific provision, as in the zoning enabling amendment. But here there is no such provision, for the very good reason that the gambling laws of the State should be uniform throughout the State. This does not necessarily mean that there can be no local option, but it does mean that there can be no legislative abdication.

If the Legislature had adopted a complete law, it could very well have left it, as I believe it should, to the decision of the individual municipalities to determine whether or not they wished to permit "games of chance" in their municipalities pursuant to such general law.

Aside from this basic constitutional weakness, how does Senate Bill No. 26 answer the questions of those citizens of New Jersey who sincerely desire a bingo bill?

Does the bill effectively bar racketeering in bingo?

Under the language of this bill, gangsters' "fraternal" clubs, as well as communist-front "educational" organizations would have a legal right to demand a bingo license in any municipality that voted for bingo. There is not a word in the bill which even requires those who conduct bingo games to be of good moral character.

Certainly the bill would cover the leading veterans organizations and other important religious, charitable and fraternal organizations. But it could place them side by side, if not in competition, with some of the worst elements in our society. There are any number of "fraternal" organ-

izations and communist-front "educational" organizations which, behind a facade of respectability, would be permitted to carry on public bingo games to finance their nefarious purposes. Some would, of course, be weeded out by alert local officials, but under the sanction of a constitutional referendum, it would even be difficult for the courts to deny these undesirables the right to a license. It is even quite likely that well-established and useful fraternal organizations might find themselves "captured" by operators in the same way that some labor unions have found themselves invaded by communist elements. The bill is so loosely drawn and so lacking in definition that it is made to order to furnish a legal haven for the variety of characters who are now engaged in one form or another of racket. This certainly is not the way to legalize bingo.

Does the bill limit bingo to non-profit organizations?

Commercialized bingo is implied in almost every important section of this bill. At first reading, the bill has a subtle suggestion that it is confined to non-profit groups, but a careful examination discloses that the word "non-profit" appears nowhere in the bill. Quite to the contrary, the bill includes some recognized non-profit organizations but actually applies to any organization, profit or non-profit, incorporated or unincorporated, which might come under the umbrella of vague terms which describe the organizations that might demand a license. Section 2 of the act provides that "the entire net proceeds" of the game "are to be devoted to the use of such organization." Section 12 of the act requires a report of the amount of the "net profit" derived from the game. The usual provision in laws applying to non-profit enterprises, that "no part of the earnings shall inure to the benefit of any individual, partner, member, private shareholder or stockholder," is conspicuously missing. It is plain that the requirements of the bill, that the proceeds be "devoted to the use of such organization," could be met in full, in the case of a corporation or association for profit, by the payment of substantial salaries (to persons other than the managers) or the distribution of dividends to the owners or members.

It is startling to observe, moreover, that some of the leading charitable, civic and economic associations of our State would be excluded from the possibility of a license under this bill. It is common knowledge that corporations with charitable purposes, and even religious corporations, have

been organized under Chapter 1 of Title 15 of the Revised Statutes which relates to "corporations not for profit." It may be impossible for these corporations to identify themselves within one of the permissible classes of licensees. It is quite clear, moreover, that civic associations, service clubs, trade associations and labor unions may not fall in any of the categories that might be described as veterans, religious, charitable, educational or fraternal organizations. The bill thus could have the curious effect of barring from the bingo privilege some of the leading non-profit organizations in this State while it would, at the same time, open the door to organizations of dim and nebulous character.

The bill openly invites commercialized bingo. It could require local authorities to issue licenses regardless of the character of a "fraternity" or of an "educational" organization, and regardless of the uses to which the profits from bingo would be applied. The reputable and worthy fraternal and educational institutions of our State would thus be used as a decoy to attract attention away from unsavory enterprises which would be free to class themselves as educational or fraternal. Despite the provision of the bill for audit of the net profits, its provision for "a license fee" (section 6) could even serve to prohibit local taxation of bingo games for revenue.

Recent experience with the difficulties of law enforcement where bookmaking and the numbers games flourish, suggests that the provision for reporting net profits to the municipality, without any public control over those profits, might even result in opportunities for corrupt influences to enmesh unwary local officials. On the surface, the bill appears to bar any "commission, salary or compensation to any person engaged or assisting in the conduct" of bingo games. This obviously does not bar the distribution of profits to members and shareholders. It does not bar the payment of large rentals for the use of equipment nor the payment of substantial fees of bingo promoters. It certainly does not bar the payment of a large percentage of the gross in the form of rentals for the use of the place where bingo games may be conducted, even though the owner of the hall may not himself be authorized to obtain a bingo license. The bill is so full of holes on the non-profit side, apparent even to an amateur, that a professional bingo operator would have no trouble in growing rich under it.

Does the bill minimize the gambling element?

The bill proceeds upon the assumption that bingo is gambling. Following this theory it provides (section 11) that "no prize shall be offered or given in cash, and no prize shall be offered or given in merchandise in excess of the value of twenty-five dollars." What would this mean to the commercial operator? Would it limit the number of prizes that may be awarded to any single individual who purchases, acquires or is given any number of cards? Would it prevent the redemption of merchandise prizes by the payment of cash after the game was over? Would it prevent the issuance of fractional "shares" in merchandise which itself is worth many times the dollar limit for a single prize? Would it prevent the cash redemption of merchandise prizes at far above their real value? These are no idle speculations, they are part of the machinery of commercialized bingo. They suggest opportunities to distort bingo into a worthy competitor of lotteries, the numbers racket, slot machines, roulette, and other devices which have served to impoverish innocent people who have been infected with the gambling fever. The bill is so preoccupied with protection of professionals that it even neglects to amend the criminal law, as was done with respect to pari-mutuel betting, and would leave the bingo players technically subject to arrest and punishment for violation of the anti-gambling statutes.

Where penalties are needed, on the other hand, the bill is silent. While the municipal governing body is given supervision "over all such games of chance to the end that the same may be fairly conducted, and that the proceeds thereof shall be applied in accordance with the provisions of this act", the delegated power appears to be limited to a suspension or revocation of the license and such proceedings as may be instituted pursuant to municipal ordinance. Recent experiences have shown that exclusive municipal responsibility for the punishment of offenses against the State is haphazard and ineffective. The act as drawn could very well result in as many different methods of license, operation and enforcement as there are municipalities. Clearly the bill should have given an opportunity to prosecutors and grand juries of the counties in appropriate cases to take reasonable steps to keep operations within proper control.

In summary, the mischief this bill would do if it became law is twofold: it would offend those who oppose, as a

matter of conscience or otherwise, legalized "games of chance." It would likewise do a great disservice to those who are in favor of bingo, either as a matter of conscience or otherwise.

The bill is replete with invitations to unscrupulous persons to abuse the privilege that it purports to grant. Assume, for example, a small municipality in need of money (there is apparently no limit to the license fee that may be charged under section 6); assume, also, an eager landlord, looking for a highly profitable lease, perhaps a percentage of the gross take (there is no requirement that the games of chance be played on premises owned by the licensee, nor is there any limit on the rents that may be paid); assume, also, a pseudo-charitable, fraternal, or educational organization, willing to pay exorbitant rents, perhaps to its own members. (There are many such organizations with charters available for purchase, for such a profitable enterprise.) The stage is now set for a lotto (or should we use a more descriptive term, lottery) casino that would outdraw and nullify the best efforts of the fine legitimate organizations supporting this bill. It is apparent that these organizations were unaware of the dangers inherent in the bill and that they were moved to support it by their desire to find an easy way to finance themselves.

All of these fears may appear preposterous to those who are not familiar with the history of licensed activities in this State and elsewhere. An examination of the Alcoholic Beverage Control reports will disclose that there are always, unfortunately, a few officials who are also landlords or members of a fraternity, charitable or educational association or organization, ready and willing to help an innocent customer enjoy a "game of chance." Where such circumstances prevail, the municipal ordinance may be expected to be lenient and cooperative.

All of this is a far cry from what the sponsors of the referendum idea contemplated. Could such organizations compete with the lush places that this bill would permit? And how long would it be before the public would rise up in its wrath and terminate the whole business? It may be possible to draft a bill that will meet the honest desires of legitimate organizations. This bill is not it.

The issue of gambling occupied the attention of the Constitutional Convention of 1947. On Friday, August 15, 1947, the minutes of the Constitutional Convention disclose

that Mr. Frank Eggers, a delegate, offered a resolution purporting to memorialize "the members of the New Jersey Legislature of 1948 to enact legislation which will permit the playing of games of chance or bingo by and for bona fide veteran, charitable, religious, and fraternal organizations, the proceeds of which are to be *devoted entirely* to the uses of such veteran, charitable, religious and fraternal organizations." (Emphasis ours.) (Senate Bill No. 26 uses the term "net proceeds" and includes many organizations and corporations not included in the Eggers resolution.)

When the question was put to a vote, the record discloses that there were "some ayes and some noes." Before there could be a roll call, the resolution was laid over. On August 18, Mr. Eggers agreed to amend the resolution to include volunteer firemen. In the debate on the resolution, a delegate stated: "I wonder, however, whether inadvertently, and perhaps unintentionally, we seem to be giving a mandate to the Legislature to enact certain legislation. Would it be agreeable to you, and to the Convention, as a whole, if we should amend the phrasing to memorialize the members of the New Jersey Legislature of 1948 to consider legislation which will permit the playing of games of chance or bingo?" The sponsor of the resolution thereupon agreed to amend his resolution to "Request the Legislature to consider legislation." It is significant that on September 10, prior to the referendum on the Constitution of 1947, a number of the principal supporters of Constitutional Revision met in Essex County, including the delegates from that county, and declared their support for the new Constitution, but also announced that they would not be bound by the Constitutional Convention's memorials to the Legislature.

It is perfectly apparent that the Legislature has complied with Mr. Eggers' request "to consider legislation."

Without passing on whether the garden variety of bingo as it is generally known and played is gambling or not, it is pertinent to observe that Senate Bill No. 26 assumes that it and all its allied games are "games of chance." Upon this assumption, we must ask ourselves, therefore, whether this is the time to expand and promote gambling activities in this State. In my judgment, it would be a great mistake for the State to put its stamp of approval on any increase in gambling activities.

If I thought for one moment that a further legalization of gambling would make the task of our law enforcement agencies easier, promote the general welfare or eliminate dangerous by-products of promiscuous gambling, I would have long since made such a recommendation to the Legislature. Senate Bill No. 26 appears to go much further than our judicial decisions. It characterizes all bingo and lotto as "games of chance." Because of this characterization, I have been compelled to review the entire history of legalized gambling in this country. On many occasions the legalization of gambling has been advocated upon the ground that it would eliminate undesirable elements and practices. This was one of the arguments that was used by the advocates of pari-mutuel betting at race tracks. Within the past year I have been urged to advocate the legalization of "wheels," "50-50 clubs," a State lottery, "wagering at cards," "slot machines," "pinball machines" and a variety of other very real or imagined gambling activities. It is already difficult to say "No" to these requests, harmless or otherwise, so long as this State places its stamp of approval upon pari-mutuel betting at race tracks. Nonetheless, there is always one additional straw that breaks the camel's back.

In 1945 the Chicago Crime Commission reported: "On the whole, the legalization of gambling in the United States has failed completely. Instead of eliminating abuses, it increased them. In many instances the gambling business, operating under the sanction of law got completely out of hand." The report continues: "The conclusion is inescapable that licensing of gambling has not afforded a solution to the gambling problem."

As I have indicated, Senate Bill No. 26 does far more than permit the playing of the old-fashioned game of bingo under restricted circumstances. It is wide open to abuse. Under one guise or another, Senate Bill No. 26 would permit unscrupulous organizations, wolves in sheep's clothing, to operate in substance, if not in name, a lottery. One of the keenest observers of democracy in America has said, governments "must practically teach the community day by day that wealth, fame and power are the rewards of labor, that great success stands at the utmost range of long desires, and that there is nothing lasting but what is obtained by toil."

In 1951 a somewhat similar bill was adopted by the Legislature of the State of Connecticut and promptly vetoed by the Governor of that State upon the advice of his Superintendent of State Police. If we encourage commercialized gambling activities at this time (the bill requires that the "entire net proceeds of the games of chance are to be devoted to the use of such organization, company or squad, . . ."), we will be ignoring the significance of the recent exposes, encouraging activity that needs no encouragement and, perhaps, initiating a train of consequences that will have disastrous results.

The bill would require the establishment of a vast new licensing system, different in each municipality, of course, replete with restrictions, ordinances, applications, affidavits, controls, supervisions, audits, prescriptions and proscriptions. At a time when most people think we have all the government we can stand, our State would be called upon to establish a new bureaucracy. It is hard to imagine a bill more vulnerable to attack or less likely to succeed. If we should permit it to become law, it would almost appear that it was enacted with the knowledge that it would fail in its purpose or be set aside in the courts if, despite its defects, it should be adopted by our citizens at a referendum.

It is hard to believe that a great State is placed in the position of making so much out of so little. At a time when the world's affairs and a meaningful national election should engage the attention of the voters, we are asked to conduct a State-wide referendum at which the voters of the entire State, acting upon the assumption that bingo is gambling, would express the sovereign will on this activity. What started as a movement to help a number of very deserving organizations and to meet the desires of a good many decent citizens, might very well, if the present proposal were adopted, do far more harm than good.

For all of these reasons, I am constrained to return Senate Bill No. 26 without my approval.

Respectfully,

ALFRED E. DRISCOLL,
Governor.

[SEAL]
Attest:

LEON S. MILMED,
Counsel and Acting Secretary to the Governor.