

# A NEVADA LAWYER PARTS THE CURTAIN OF NOSTALGIA — NEVADA’S GAMING ODYSSEY

By U.S. Senator Richard H. Bryan (Ret.)

When the Comstock Lode was discovered near Virginia City in 1859 hundreds of prospectors, entrepreneurs, and adventurers crossed the Sierra Nevada and came to Nevada seeking their fortune. They brought with them a gambling culture.

In 1861, the Nevada Territory was created, and Abraham Lincoln appointed James Nye as the Territorial Governor. Nye opposed games of chance and urged the Territorial Legislature to ban them. Responding to the Governor’s request, the legislature imposed stiff penalties for running or participating in a game of chance.

Thus, began a 70-year odyssey with Nevada decriminalizing gambling in 1869 and then reversing course at the height of the Progressive Era and banning nearly all forms of gambling in 1909.



With the decline of mining, Nevada's population at the turn of the 20th century had declined to 45,000. In desperate need of a new industry and recognition of the change in the social mores of the country, Nevada liberalized its divorce laws, shortening the period to establish a Nevada residence and expanding the grounds for divorce. Among the first to take advantage of the new law was Mary Pickford, "America's Sweetheart," who came to Nevada to get a divorce so she could marry another Hollywood icon – Douglas Fairbanks. Her lawyer was Pat McCarran. The initial reaction by the bar was outrage, at the transparent attempt to create a short time Nevada residence. Cooler heads prevailed as more pragmatic lawyers recognized this was a new opportunity for the legal profession and in short order Reno became the "Divorce Capital" of America.

"happens here, stays here" continues the mystique that Nevada is a very different place.

From 1931 to 1945, gambling was regulated at the local government level. Gaming establishments were treated like other businesses and cities and counties issued business licenses and collected taxes. The state played no role. That was about to change. WWII brought thousands of GI's to train at Stead Air Base in Reno and at the Las Vegas Army Air Corp Base. In 1941, Tommy Hull opened the El Rancho Vegas in Las Vegas, on the highway to Los Angeles. The following year, the Last Frontier opened nearby. The Las Vegas "Strip" was born. Gambling was becoming a major industry and a new chapter in the evolution of gambling regulations was about to begin.



With the onset of the Great Depression and the continuing decline of mining, once again Nevada was in search of a new industry. A freshman legislator from Winnemucca, Phil Tobin, introduced legislation legalizing casino gambling and Governor Balzar signed the bill. The initial framework for Nevada's largest industry was now in place. Mayme Stocker's Northern Club in Las Vegas and the Bank Club in Reno were among the first gaming licenses issued. The combination of Nevada's liberalized divorce laws and casino gaming subjected Nevada to harsh criticism. Nevada was branded as a modern-day Sodom and Gomorrah. That legacy has faded but the Las Vegas Convention & Visitor's Authority's highly successful campaign "What

The 1945 legislature enacted legislation that would transform gaming regulation. The legislation required a state gaming license prior to the issuance of a local gaming license and imposed a "gross gaming tax" on licensees. The Nevada Tax Commission was designated as the state agency to issue gaming licenses and to collect the gross gaming tax. Calculation of the gross gaming tax due was simple: all of the licensees' winnings minus payouts to winning customers. The gross tax provision was controversial. Governor Carville favored enhanced taxes on the gaming licenses to be issued rather than a gross tax. Notwithstanding his opposition to a gross gaming tax, the bill approved by the legislature contained a gross gaming tax and Governor Carville

allowed the legislation to become law without his signature. The decision to impose a gross gaming tax on the industry was farsighted. The gross revenue collected in the most recent biennium was \$1.5 billion and represents 18.5% of the total general fund.

The new legislation was silent on the question – what authority, if any, the Tax Commission had to inquire into the background of prospective licensees. The Tax Commission turned to Attorney General, Alan Bible, later a U.S. Senator, for guidance. Bible's



crime, "The Mob," looking to expand its operations, saw an opportunity in the burgeoning gaming mecca of Las Vegas. Bugsy Siegel persuaded his friend, Meyer Lansky, that Las Vegas presented a new opportunity. Lansky and Siegel, joined by Gus Greenbaum and Moe Sedway, purchased the El Cortez in 1945. "The Mob" had established its first gaming beach head in Nevada. The following year, they sold the El Cortez. Together with Billy Wilkerson of the Hollywood Reporter, they began development of the Flamingo Hotel – placing Siegel in



14 cities, including Las Vegas, and called 600 witnesses to testify.

Television was in its infancy, but an estimated 30 million people tuned in. The gangsters were the star witnesses and their testimony or invocation of the Fifth Amendment was riveting theater. The national publicity Kefauver received earned him a vice presidential nomination on the national Democratic ticket in 1956.

Kefauver brought his Committee to Las Vegas on November 15, 1950 at the Federal Courthouse, now the site of the Mob Museum. The Las



response was one of the most significant legal opinions in the history of Nevada's regulation of gambling. Bible opined that although the newly enacted legislation did not expressly confer upon the Tax Commission the authority to conduct background checks, the legislature, by authorizing the Commission to grant gaming licenses, included the implicit authority to inquire into the background and probity of the applicants seeking a license. The modern era of the state's primary role in regulating gaming and collecting taxes had begun.

Nevada, and Las Vegas in particular, experienced enormous growth during WWII and the years that followed. Las Vegas's population tripled from 8,000 to nearly 25,000 in the 1950 census. In 1941, J. K. Houssel Sr. opened the El Cortez Hotel and Casino in downtown Las Vegas. The property quickly turned a profit. On the "Strip" the El Rancho Vegas and Last Frontier were generating impressive numbers. Organized

charge. Plagued by costly overruns and a disastrous opening, "The Mob" had had enough and Siegel was murdered gangland style in Los Angeles. His assailants were never identified.

Elsewhere in America a reform movement swept across the Country – closing many illegal gaming operations in a number of cities. Organized crime had prospered during the Prohibition Era and sought to expand its gambling interests. "The Mob" and its activities were prominently featured in major newspapers and other publications engendering much negative publicity.

In 1950, Senator Estes Kefauver from Tennessee introduced a resolution to investigate the role of "The Mob" in interstate commerce. The United States Special Committee to Investigate Ongoing Crime in Interstate Commerce were formed and chaired by Kefauver. The Kefauver Committee, as it came to be known, held hearings in

Vegas hearing was less dramatic than some of the earlier hearings, but the testimony of William J. Moore, a manager at the Last Frontier and a member of the State Tax Commission, exposed the role of "The Mob" in controlling the "race wire." In the days before cell phones and TV, information on sporting events was transmitted to the casinos by a "race wire." The information transmitted included not only the results of a horse race, but included the odds and payoff.

Moore explained that Bugsy Siegel, a few years earlier, had gained control of the race wire. Casinos could only get access to the wire if they paid Siegel. No payoff, no access. The 1949 State Legislature changed that and mandated equal access for all casinos.

The Kefauver Committee hearing exposed the activities of "The Mob" in Las Vegas and led to threats by Congress to impose new taxes on Nevada's gaming casinos. Responding to the potential federal threat, the state took a

more aggressive role in regulating the casino industry. In 1955, the state legislature created the Gaming Control Board (“Board”) and made it a division of the Nevada Tax Commission. Its purpose was to eliminate undesirable elements in Nevada gaming and to require regulations for the licensing and operations of gaming.

Four years later, Governor Sawyer proposed legislation removing the Tax Commission from its role in regulating gaming and creating a new entity – the Nevada Gaming Commission (“Commission”).

be licensed. The bill was controversial. George Dickerson, a former Clark County District Attorney and then Chairman of the Commission, resigned as a matter of principle because he was concerned this would weaken the state’s control over gaming. The legislation passed. Today, the Las Vegas Strip is dotted with casino properties costing into the billions to construct. The amount of capital to construct such properties could not have been amassed without a corporate structure.

During the 1977 legislative session, I served in the State Senate on the Judiciary Committee. Nevada was about to lose its status as the only state to have legalized casino gambling. Nevada’s gaming regulators were about to embark upon uncharted waters. Protecting the integrity of Nevada’s gaming was the guiding principle. Among the potential issues: what control, if any, would Nevada regulators have with respect to a Nevada licensee whose conduct in New Jersey reflected unfavorably on Nevada’s industry? What if New



Under the new structure, the Board would make recommendations on licensing and disciplinary issues. The final arbiter would be the Commission. As an interesting aside, two state Senators – Carl Dodge from Fallon and Pete Echeveria from Washoe County – [who would later become Commission chairmen] held different points of view on the proposed legislation. Dodge opposed it, Echeveria supported it.

Sixty years later, Nevada’s bifurcated regulatory structure is still regarded as the Gold Standard. As legalized gambling spread across America and the world, many jurisdictions adopted the Nevada model.

As new casinos grew in size and cost, the old model requiring every person who had any interest in a gaming property to come forward for licensing was impractical. In 1969, newly elected Governor Paul Laxalt proposed a corporate gaming act permitting corporations to obtain gaming licenses, obviating the requirement that everyone with an interest must

## **DEPUTY DISTRICT ATTORNEY – STATE LEGISLATURE**

As a Deputy District Attorney and Public Defender, I had no experience with gaming regulatory issues. The only case I prosecuted that involved a gaming casino was a craps dealer at the Riviera Hotel who was charged with embezzling gaming chips. Judge Mowbray allowed cameras in the courtroom and when I brought a crap table into the courtroom, it generated a lot of publicity. The Los Angeles times featured the crap table in its cover story. The defendant was convicted.

In 1968, I was elected to the State Assembly and among my other committee assignments was the Judiciary Committee. The Judiciary Committee had jurisdiction over gaming issues; none of the gaming legislation the Assembly Judiciary Committee processed was groundbreaking or controversial.

Jersey’s regulations were weaker than Nevada’s and held New Jersey’s licensees to a lower standard? There was much uncertainty. New Jersey had not yet opened a gambling establishment.

The answer was the Foreign Gaming Act. The genius of the act was that the Nevada licensee would not only have to comply with New Jersey regulations but would have to operate in accordance with Nevada’s standard of honesty and integrity. Any action by a New Jersey licensee in New Jersey that posed an unreasonable threat to the control of gaming in Nevada would subject the New Jersey licensee, who also held a Nevada gaming license, to disciplinary action in Nevada.

The Foreign Gaming Act was referred to the Senate Judiciary Committee. It was my first real experience with the gaming regulatory process in Nevada. As a member of the Committee, I played an active role in securing its enactment. It would prove to be a valuable experience in the future.

## ATTORNEY GENERAL'S OFFICE

Bob List, as Attorney General, had assembled an impressive group of Deputy Attorneys General. Shortly after my election, I interviewed them and decided to retain most of them.

My most pressing challenge was to fill the vacancy created when Bud Hicks, the Chief Deputy in the Gaming Division, resigned to accept an offer to join a prominent law firm. Bud enjoyed the respect of the Board and Commission and members of the bar who regularly appeared before state regulators. Filling that vacancy would be a tall order.

The gaming industry was in transition. Publicly-traded corporations were beginning to move into the gaming marketplace. Organized crime was suspected of being involved in several gaming properties and I anticipated the Attorney General's office would be playing a major role in advising Nevada's gaming regulators and defending their decisions on any license revocations.

As I pondered my choice, I had a chance meeting with Harry Reid, then the Chairman of the Commission. He suggested Ray Pike, who he characterized as very smart and with considerable experience in the U.S. Attorney's office. The name Pike was familiar to me. Doug Pike and I had taken the bar together in 1963, and his son, Ray, had been a member of the Las Vegas High School debate team. I vaguely remembered him as an impressive debater who I had once judged in a debate.

I placed a call to Ray and scheduled a meeting with him. Although Ray had no gaming experience, I was impressed with him. In checking with his colleagues in the U.S. Attorney's office they were fulsome with praise.

I offered the Chief Deputy job to him and he immediately accepted. I charged Ray with selecting a team of deputies. His first choice was Phil Pro, a former colleague in the U.S. Attorneys office and later a Federal District Court Judge for 36 years. Walt Lloyd, Bill Hammer, and Patty Becker were added to the team. They were all young, intelligent, and eager to prove that they were up to the task. Relations with the Board were frayed and on occasion that presented its own set of problems, but they functioned well as a team.

There was no time for on the job training. Issues at the Aladdin, Tropicana, and Stardust surfaced shortly after Ray and his team took over.

### 1. The Aladdin Hotel

In the summer of 1979, The Aladdin Hotel Corp., and its principals, James Abraham, James Tamer, Charles Goldfarb, and Ed Monazym were convicted in federal court in Detroit of a racketeering conspiracy to allow hidden owners to control the hotel/casino.

Stan Hunterton (then an Organized Crime Strike Force prosecutor), was lead prosecutor on the case, and came to Nevada a couple of years later. The conviction resulted in immediate revocation of the gaming license, and the Board and Commission ordered the casino closed. Although there was no statutory authority; Ray and his team devised a plan to appoint a supervisor so that the casino would not have to be closed but management would be removed from any operational control of the casino. Judge Harry Clairborne granted injunctive relief reopening the casino, under a Commission appointed supervisor, Leo Lewis. The following year, I argued the appeal in the Ninth Circuit, and the Commission's closure order was affirmed. Wayne Newton and Ed Torres then bought the Aladdin.



## 2. The Tropicana

The legitimate money here was provided by owner Mitzi Stauffer Briggs, who had a lot of money, but was unsophisticated and naïve. Her partner was an RV motorhome millionaire from Minnesota named Deil Gustafson. The hidden owners were the Civella brothers (Nick & Carl) from Kansas City, and their front man was Joe Agosto. Their world turned upside down when Carl Thomas went to Kansas City, Missouri to meet with the Civella's in the basement of their sister's home to describe how he had orchestrated the slot skims at the Bingo Palace



and Stardust. Unknown to the participants, the Department of Justice Organized Crime Strike Force in Kansas City and the FBI had a bug in the basement and recorded the whole story. When the wiretap was unsealed and hit the press, the participants were toast. The silver lining was that in late 1979, Ramada Inns purchased the Tropicana. I think this represented the entry of the first outside publicly-traded corporation to enter the major gaming market. This was a significant

development, as it brought tighter regulation from the SEC, as well as the fledgling Securities Division at the Board. The rest is history.



## 3. The Stardust

The genesis for the Stardust issues dated back to the 1970s with the Argent Corporation. Frank Rosenthal, Tony Spilotro, and the Chicago mob had been looting the Casino for years. After reviewing the evidence, Pike and Pro took the lead in filing a complaint on behalf of the Board that resulted in the ouster of Argent and the Chicago mob and a fine of one million dollars.

There were questions about the replacement owners, Herb Tobman and Al Sachs. Pike and Pro recommended a one-year license which would require them to renew their gaming license the following year. The rationale for this strategy was, if problems surfaced with the new owners, the burden would be on them to get approval for a new license. By contrast, if Sachs and Tobman were issued a full license and problems surfaced questioning their suitability, the burden would be on the Commission to prove their unsuitability. The FBI had provided Pro and Pike with information that the Bureau was conducting a skimming investigation that was wide ranging. This information could not be made public

because the investigation had not yet been completed.

The Board, consisting of Roger Trounday, Richard Bunker, and Jack Stratton, unanimously approved their recommendation for a limitation on Sachs and Tobman. Two weeks later, the Commission reversed the Board on a 5-0 vote. Trounday, the Board Chairman, believed he had been “stabbed in the back” and immediately resigned from the Board.

By the time Ray Pike left the Attorney General's office to accept an offer in the private sector, the team he had assembled had become seasoned gaming attorneys with considerable experience. The position of Chief Deputy in the Gaming Division enjoyed a high profile in the gaming industry and both Bud Hicks and Ray Pike had received attractive offers in the private sector when they left the Attorney General's office. Legal skills would be the primary criteria for Ray's replacement, but the ability to work with the Board and Commission would be important. I wanted a Chief Deputy who was independent and was strong enough to provide the Board and the Commission with the best legal advice possible even if the Board did not like the advice.



Patty Becker came into the Gaming Division as a part time deputy. Major cases like the Aladdin, Tropicana, and Stardust were very time-consuming, so shortly after coming to the division, she became a full time Deputy in the Gaming

Division. I spent a lot of time with Patty and other gaming deputies. I found her to be smart and tough. Although she was the youngest deputy in the division, she could hold her own on any legal issue or strategy being considered. I liked that quality about her. In the early 1980s, gaming was a man's world; no woman had ever served as the Chief of the Gaming Division. I talked to Patty about some of the challenges she might face. She acknowledged that there would be challenges for her as a woman but said she was ready for them. For me, the issue was how would the industry react to a woman being appointed? I knew she was the right choice and I was prepared to deal with any fallout. My choice was a fortuitous one. She would successfully argue and prevail on three of the most important cases that went to the Nevada Supreme Court during my time as Attorney General.

In *Summa Corp. v. State Gaming Control Board*, 98 Nev. 390, the issue presented to the court was the deductibility of uncollected markers from the state gross gaming tax. Since the enactment of the gross gaming tax by the 1945 legislature, casinos have been taxed on their gross earnings minus payouts to gaming customers. Credit extended to gaming customers for casino play is evidenced by a "marker". A "marker" has a legitimate business

purpose – to extend casino play. "The Mob," however, had effectively used it as a way to get large sums of money out the back door and avoid paying taxes. A marker was issued – not for casino play – but to funnel money to the organized crime owners.

To close that loophole, the Commission adopted a series of regulations, including requiring administrative and accounting control systems. The protocol required casinos to document the markers issued with detailed information and to prove that the casino had made a legitimate effort to collect. If the casino met the requirements, the markers could be deducted from the casino's gross winnings and designated as "regular markers;" if not, the marker was deemed irregular and no deduction was allowed. The regulations adopted by the Board were the subject of the appeal. In a Per Curiam decision, the Supreme Court upheld the Commission's regulations.

In *State of Nevada v. Glusman*, 98 Nev. 412, the case before the court was a challenge to the constitutionality of a statute that provided that "any person or entity that does business on premises occupied by a gaming licensee may be required to apply to Nevada Gaming Commission for a determination of suitability."

The plaintiff was engaged in the retail clothing business on the premises of the Las Vegas Hilton and the Stardust hotels. A unanimous decision by the Supreme Court rejected the plaintiff's argument and upheld the enforceability of the regulation.

In *Spilotro v. ex rel Gaming Commission*, 99 Nev. 187, the plaintiff, Anthony J. Spilotro, challenged the constitutionality of NRS 463.157, which empowered the Commission to adopt regulations establishing a list of excluded persons, the so called "Black Book," "who are to be excluded or ejected from any licensed gaming establishment." The Commission on December 7, 1978, issued an order placing Spilotro on its list of persons to be excluded. The court affirmed the constitutionality of the "Black Book," but required the Commission to prepare findings of fact that was the predicate for their action.

In my four years as Attorney General, the state made great progress in removing elements of organized crime from the gaming industry. As we shall see, there was more to be done, but the days of "The Mob" in Nevada's gaming industry were coming to an end.

Much credit goes to the legal work of a young, talented, and dedicated staff of attorneys who went toe to toe with some of the most experienced attorneys in the state and generally emerged victorious.

## GOVERNOR'S OFFICE

As I took office in January of 1983, the national recession continued to have a severe impact on Nevada. I was forced to make painful budget cuts. The gaming industry felt the pain as well – visitor



volume was down and “high roller” travel to Nevada had declined.

During my campaign for Governor, gaming issues surfaced and so I talked frequently with Paul Bible. Paul advised me that “there was a general perception that the ability to obtain gaming licenses was centered on having the right influence.” Treating everybody the same – no special favors – became a part of my campaign platform. The day I was sworn in as Governor, I announced my appointment of Paul Bible as the Chairman of the Commission. Paul’s family had deep roots in Nevada. His father had been the Attorney General and a United States Senator. My father had been a member of the debate team with Alan Bible at the University of Nevada. Paul was a highly respected member of the Nevada Bar and had represented gaming clients.

Before accepting the appointment, Bible made it clear that if I ever requested him to vote a certain way on a gaming matter that he would tender his resignation. I assured him that would never be an issue; that it was his job to make the decisions based on the evidence before him. By the time I was elected Governor, I had



served for 18 years in several public offices and I valued my reputation for integrity.

My appointments to the Board reflected my philosophy – that there would be no interference from the Governor’s office. The Board should follow the evidence. I appointed Jim Avance, a former North Las Vegas Chief of Police, and Dick Hyte, a CPA. I had been very impressed with Patty Becker as the Chief Deputy in the Gaming Division, so I appointed her to the remaining seat on the Board. No woman had ever served on the Board and it would be 40 years before another would be appointed. I made it a point to take Patty to visit with several key gaming operators so that there would be no mistake that she enjoyed my complete and total confidence.

For some time there had been rumblings about skimming at the Stardust. In December of 1983, it came to a head. The FBI unsealed affidavits alleging skimming. The Board followed up with its own investigation and submitted to the Commission a 45-page affidavit outlining how the skim was accomplished and requesting the Commission close the Stardust *ex parte* without a hearing.

When Paul Bible received this request, he called me and I arranged to meet him that evening at his Reno office. I was heading to the Prospector Club with Bonnie for a Christmas party. I was wearing a tux and Bonnie wore a formal gown. Paul outlined the evidence contained in the Board’s affidavit and asked me what I thought. My response was, “Paul, you’re Chairman of the Commission, now Bonnie and I have a party to go to.”

Bible was sensitive to the timing of the Commission’s actions. Closing the casino would put a lot of people out of work at Christmas time. The legislature had enacted a supervisors statute allowing the gaming establishment to remain open but under the operational control of the Supervisor.



The Commission issued an emergency Order of Suspension and Appointment of a Supervisor. The Stardust challenged the Order of Suspension and Appointment of a Supervisor. The District Court affirmed the decision of the Commission, which was immediately appealed to the Nevada Supreme Court. The Supreme Court held an emergency hearing and suggested that the Commission hold a hearing and allow the licensee an opportunity to challenge the Commission’s emergency order. During the hearing, a settlement was entered into between the Stardust and the Board. Among its provisions was a stipulation that the Stardust waive its right to an appeal. Presciently, as it turned out, Bible asked the Stardust principals if they voluntarily agreed to the terms of the settlement. They responded in the affirmative. Months later, the Stardust filed suit in U.S. District Court asserting they had been coerced into signing the Control Board’s settlement. The District Court and the Ninth Circuit Court of Appeals ruled Bible’s colloquy with the principals foreclosed that contention.

The Stardust principals also owned the Fremont and the Sundance casinos. The actions taken by the Commission resulted in the sale of all three of the casino properties.

The 1983 session of the legislature authorized the Commission, upon the recommendation of the Board,



to adopt regulations governing pari-mutuel wagering. The legislation did not mandate the enactment of pari-mutuel regulations. That was left to the discretion of the Board and the Commission.

The old world of gaming was changing. A new world of electronic wagering had begun. As the premier gaming destination in the world, the Nevada legislature wanted to be sure that Nevada would not be left behind if there were new opportunities to be explored.



Following the legislature's adjournment, there was much discussion about pari-mutuel wagering. Among the issues raised: would the costs incurred to create a regulatory structure exceed the revenue generated? Should the pari-mutuel pool be intrastate only or interstate? What security issues would be raised?

Should control be private or public? What is the role of simulcasting? John O'Reilly urged me to convene a meeting of the Gaming Policy Committee.

The Gaming Policy Committee is chaired by the Governor and includes representation from the Commission, Board, state legislature, the gaming industry, and members from the public at large. I appointed John O'Reilly as a public member to the Committee. Prior to the committee convening, O'Reilly prepared a report on the history of the Committee and the issues the Committee had taken up. The Committee had met on 30 occasions over 22 years. In reviewing issues the policy committee had addressed in those past 22 years, I concluded a pari-mutuel regulatory structure was an appropriate one for the committee to consider.

I convened the Policy Committee on October 27, 1983, in Las Vegas. The committee received the testimony of several witnesses who provided detailed explanations of how a pari-mutuel pool worked. The witnesses generally agreed that an intrastate pool would be too small. One witness – Joseph Joyce, the President of the Arlington Racetrack, was particularly rhapsodic about the benefits to the state. Other witnesses were less enthusiastic.

There was a tremendous amount of information to be digested and I decided that a follow up meeting would be needed. The follow-up meeting met in Reno on May 16, 1984. The Nevada Association of Race and Sports Book Operators were unanimous in their opposition. Warren Nelson, one of Nevada gaming icons, who operated the Cal-Neva Casino in Reno, was called back to testify and he



declared this was not the time for a pari-mutuel structure.

At the conclusion of the meeting, it was clear that there was little appetite for moving forward. Jim Avance, the Chairman of the Board, moved that there was "an insufficient wagering base to support either a local or statewide system...and therefore...para mutuel regulations (should) not be adopted...at this time." John O'Reilly seconded the motion and the Policy Committee unanimously approved Avance's motion. John O'Reilly had done his homework. He was an active member of the Committee and his questions of the witnesses were always insightful.

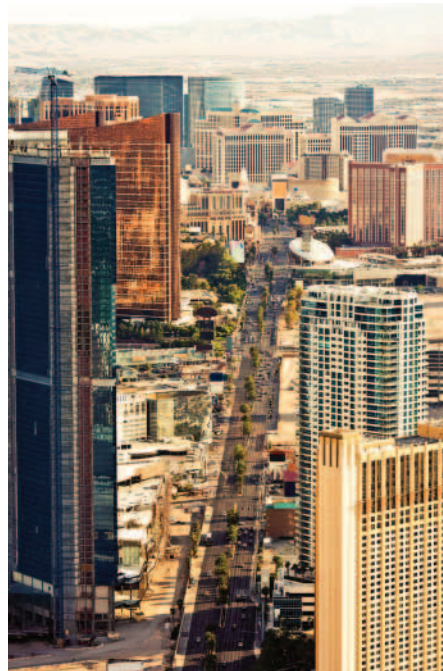
In the 1980s, Ivan Boesky was a Wall Street trader who had become the "King Arbitrager." Casting his eye on Holiday Inns, he acquired 8.6% of their stock. He then approached management of Holiday Inns informing them that he intended to acquire a controlling interest in Holiday Inns and replace the company's management. This could be avoided, he added, if Holiday Inns purchased his existing stock at a substantial premium above its market price. Holiday Inns purchased Boesky's stock at a premium and Boesky made millions. This practice came to be known as "greenmailing."

Boesky's success caught the attention of Donald Trump. Bally's

was his target of opportunity. Trump's actions generated a fair amount of publicity and he was accused of "greenmailing." I got a call from Trump's local counsel requesting a meeting with me at the Governor's office in Carson City. At the appointed time, Trump and his local counsel arrived in my office. After a brief introduction, Trump launched into a soliloquy about how much he had heard about me and how eager he had been to meet me in person. I may not be the sharpest knife in the drawer, but I had been to a few rodeos and I know when someone is "blowing smoke." The meeting ended with Trump vehemently protesting that he was not trying to "greenmail" Bally's.

Bible, as Chairman of the Commission was contacted by Bally's attorneys who inquired as to what Nevada regulators could do to prevent Trump from acquiring a controlling interest in Bally's and then "greenmailing" them. Bible said nothing in Nevada's gaming regulations would prevent Trump from moving forward.

Trump, however, owned two casinos in Atlantic City and Bally's owned one. Bible informed the attorneys that under New Jersey law no gaming licensee could own more than three gaming properties in New Jersey. Steve Wynn was unhappy with the regulatory environment in Atlantic City and might be willing to sell the Golden Nugget, his casino there, so he could develop a new property in Las Vegas. If Bally's purchased the Golden Nugget, Trump would be prevented from acquiring Bally's because, with Trump's two existing gaming properties and Bally's new acquisition of the Golden Nugget, Trump would own more than three properties in Atlantic City. Bally's purchased the Golden Nugget and Wynn used the proceeds to acquire property on the strip in Las Vegas and to build the Mirage. Some would say that Trump had a role in the development of the Las Vegas strip.



As Bible's time as Chairman was coming to a close, he informed me that he would not seek reappointment. With the legislative session on the horizon he recommended that he resign early so that his successor could be appointed in time to prepare for the legislature which would convene in January. That made sense to me.

John O'Reilly had come to Nellis Air Force Base as a Staff Judge Advocate. He liked what he saw and recognized an opportunity in Las Vegas. He took the Nevada Bar and joined a local law firm. John and I were officed in the same building and we saw each other several days a week. As I prepared for my campaign as Attorney General, I shared office space with him. We worked well together. His participation as a member of the Gaming Policy Committee was impressive. John also had an accounting background and an M.B.A. I offered him the chairmanship and he accepted. As with Paul Bible, I told him there would be no interference from the Governor's office. The transition was a smooth one.

Under John's chairmanship the Commission continued to make persons with ties to organized

crime a top priority. Frank "Lefty" Rosenthal and Carl Wesley Thomas were added to the "Black Book."

John assumed the chairmanship at a time of unprecedented growth in the gaming industry. John brought his organizational skills to bear and established procedures for the Commission to receive periodic updates from the Board. Some gaming establishments had compliance committees, but under John's tenure they became the established practice.

During my tenure as Governor, the history of gaming in Nevada evolved and provided the foundation for not only gaming in Nevada but the expansion of gaming around the world. The gaming regulatory process pioneered in Nevada as well as the entertainment experience pioneered in Nevada is the foundation of world class entertainment complexes that we now see not only around the United States but throughout the world.



## U.S. SENATE

In the decades following Nevada's legalizing gambling, Nevada was viewed by many as a pariah state. Under the common law, gambling debts were unenforceable. The enforcement of such debts was contrary to public policy and that was the law in Nevada as well.

In the Congress, gaming was not a favored industry. Unfavorable national publicity about the activities of “The Mob” and its infiltration into Nevada’s gaming industry placed Nevada gaming operations at considerable risk. As the only state with legalized gambling, Nevada had no natural allies. The only procedural weapon available to Nevada in the Senate was the filibuster. Southern States had effectively used it to prevent votes on civil rights legislation. Fortunately for Nevada, Senator Pat McCarran had amassed considerable seniority since his election to the Senate in 1932. He was a powerful force to be reckoned with and he knew how to wield power.

Nevada and the Southern States, for very different reasons, saw the filibuster as a procedure to protect their interests. Sixty votes are required to invoke cloture, the procedure required to end a filibuster. Nevada and the Southern Senators entered into what some referred to as an “unholy alliance.” Nevada Senators would oppose cloture on civil rights legislation and Southern Senators would oppose cloture on legislation adversely impacting Nevada gaming issues. No Nevada Senator had ever voted for a cloture petition until the 1960’s when Senator Cannon broke ranks to support cloture on the civil rights bill. McCarran

effectively blocked federal legislation that would have hurt Nevada’s gaming industry.

In 1989, when I came to the Senate, Nevada was no longer the only state to have legalized gambling; New Jersey and Mississippi had joined the club. In Nevada, where gaming is our largest industry, Senator Reid and I viewed the protection of the gaming industry from unwarranted federal intrusion as one of our primary charges. In New Jersey, gaming was limited to Atlantic City and, in Mississippi, gaming was restricted to limited areas of the state. As Governor, I was invited to give a welcoming address to a gaming conference in Atlantic City because New Jersey’s Governor had refused to attend. It was a different era but much like McCarran’s time it was the Nevada delegation in the Senate – Reid and I – who would have to do the heavy lifting.

Senator Bradley, the senior Senator from New Jersey who had been an All-American Basketball player at Princeton and later played with the New York Knicks, was a critic of gambling and supportive of a sports betting ban.

Senator Lautenberg, New Jersey’s other Senator generally followed Bradley’s lead on gaming issues.

The first challenge came with the introduction of the Professional and Amateur Sports Protection Act. Its avowed purpose was to effectively outlaw sports betting nationally.

Working with Senator DeConcini from Arizona, who chaired the subcommittee which had jurisdiction of the bill, we were successful in carving out an exemption for Nevada, Oregon, Delaware, and Montana were exempt as well. Interestingly, New Jersey was given a one-year window to request an exemption but failed to exercise its option. Ironically, two decades later, New Jersey wanted sports betting and took the lead in the legal fight to have the statute declared unconstitutional, which the Supreme Court did.

Four years later, a National Gambling Impact Study Commission was created. The Act authorized a comprehensive study of the social and economic impact of gambling in the United States. It was obvious from the beginning that the opponents of gambling would seek to stack the deck against Nevada. The appointment of Kay James as the chair and James Dobson, founder of Focus on the Family, confirmed our worst fears. The Act provided for the appointment of 9 members to the Commission. Reid and I were successful in making the case for a more balanced commission and secured the appointment of Bill Bible, Chairman of the Board; John Wilhelm, the President of the Hotel Employees and Restaurant Employees Union; and Terry Lanni, Chairman and CEO of the MGM. Our work was not done. Kay James and other anti-gaming commissioners



attempted

to circumvent the protections of the open meeting law and employed other tactics which were a cause for continuing concern.

Ultimately, the final report recommended only two areas for an appropriate federal regulatory role – Indian Gaming and the Internet. Regulation of gaming



was left to the states.

In 2000, my last year in the Senate, the Amateur Sports Integrity and Gambling in Amateur Sports Act was proposed. The purpose of the legislation was to close the so called “Las Vegas loophole” that allows legalized gambling on amateur sports in Nevada. The forces arrayed against us, included not only the moral critics of gambling but major league sports organizations, university presidents, coaches, and the NCAA.

On March 29, the Senate Commerce Committee convened under the chairmanship of Senator John McCain. An impressive list of witnesses was called, including a college coach, a university president, Nevada gaming regulators, and academics who had studied gaming. The Committee was told there was a crisis in America with sports wagering on amateur athletics. As a member of the Committee I was allotted considerable time to examine witnesses who were supporting the legislation. In my view, the NCAA and college presidents who supported the



legislation were hypocritical. All talk but little action.

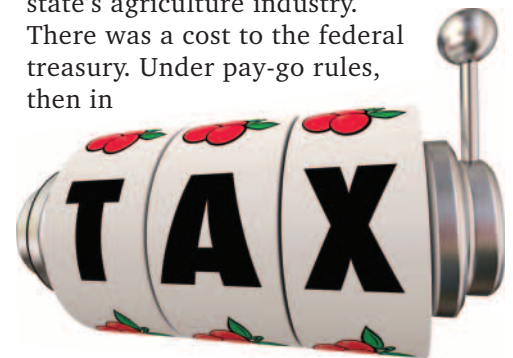
I focused my line of questioning on Dr. Wethington, President of the University of Kentucky, appearing before the Committee in a dual capacity representing the NCAA as well. The NCAA had recently negotiated a \$6 billion contract with CBS. When my turn to ask questions came, I began with a series of questions directed to Dr. Wethington. How much money had the NCAA allocated to combat this supposed national crisis? The answer was that a video had been produced outlining the dangers of betting on college games. I asked the cost of the video was told \$25,000. Not much, considering the recent broadcast deal with CBS. How many full-time staffers at the NCAA were assigned to this crisis? Three, I was told. How many NCAA member schools are there? 1,074 members was the reply. Turning to the University of Kentucky, how many student athletes or bookmakers had been prosecuted for illegal gambling on amateur sports? Dr. Wethington could recall none.

Brian Sandoval, then the chairman of the Commission; Bobby Siller, Member of the Board; and Frank

Fahrenkopf on behalf of AGA offered effective rebuttals.

The bill did not become law.

Another experience in my Senate career makes the point that on gaming issues Nevada Senators would be required to take the lead on any legislation that would be damaging to the industry. Senator Conrad Burns of Montana had introduced legislation assisting his state’s agriculture industry. There was a cost to the federal treasury. Under pay-go rules, then in



effect, legislation that had an additional cost to the federal treasury had to be offset by new revenue.

Burns had chosen an additional tax on gaming, which was generally considered an easy target. I met with Trend Lott from Mississippi, the majority leader. He called in Burns to his office and said “we can’t have that – get a

new offset.” His parting comment to me was, “Don’t tell anyone I was helpful.” In Mississippi, supporting the gaming industry was not universally appreciated.

Gaming legislation at the federal level was not my only concern. The casino industry is potentially impacted by a plethora of federal regulations. The U.S. Treasury proposed a regulation which would have severely limited casino play by imposing an ill-timed withholding requirement that would have interrupted patron play. I was able to explain the impact on the industry and Treasury withdrew its proposal.

Because casinos are included within the federal definition of a bank, when Treasury proposed reducing the number of cash reports that had to be filed, I was successful in making sure that casinos enjoyed the same reduction in required cash reports.

It’s been nearly 80 years since Phil Tobin and the 1931 Nevada legislative launched legalized gambling. In 1930, Nevada was the least populated of the then 48 states with 90,000 residents. Today, Nevada’s population is approaching 3 million. Although mining has had a recent renaissance with its production of gold, it and agriculture are no longer the economic engines driving the state’s economy.



Gaming has been the catalyst for Nevada’s growth. Las Vegas has become the entertainment capital of the world. The “Noble Experiment,” although far from perfect, has served the state well.

Former U.S. Senator Richard Bryan focuses his practice at Fennemore Craig on government relations at the federal, state, and local levels, particularly in the area of public land use issues. He began his legal career in 1964 as a Deputy District Attorney in Clark County, Nevada. Two years later, he was named Clark County’s first Public Defender. In 1968, Senator Bryan was elected to the Nevada State Assembly and re-elected in 1970, he was elected to the State Senate in 1972 and re-elected in 1976. The former prosecutor won his first statewide election as Nevada’s Attorney General where he played a major role in successfully defending Nevada’s gaming regulatory structure in the federal courts.

In 1982, Senator Bryan was elected to his first of two terms as the Governor of Nevada. Under his leadership, economic diversification and the attraction of new businesses to Nevada became a

priority. In 1988, he was elected to the first of two terms in the U.S. Senate. Senator Bryan was the only Senate member to simultaneously serve on the following U.S. Senate Committees: Finance; Commerce, Science and Transportation; and Banking, Housing and Urban Affairs. He authored the Southern Nevada Public Land Management Act of 1998.

Senator Bryan graduated from the University of California, Hastings College of Law; Order of the Coif. He has awarded Doctor of Humane Letter from the University of Nevada, Reno, where he earned his Bachelor of Arts degree.

Senator Bryan has been recognized by Best Lawyers in America®, Government Relations Practice, Land Use and Zoning Law, 2008-2020; Best Lawyers in America®, Lawyer of the Year, Land Use and Zoning Law, 2019; Education Hero, The Public Education Foundation, 2019; ACLU Lifetime Achievement Award, 2018; “Legal Elite,” Nevada Business Magazine, 2015; Distinguished Nevada, Presented by the Nevada System of Higher Education, 2011; Mountain States Super Lawyers®; and named Alumnus of the Year by the University of Nevada, Reno. In addition, he has been honored in Clark County with the Richard H. Bryan Elementary School, as well as the Richard H. Bryan State Office Building in Carson City and Richard H. Bryan statue and plaza on the campus of the University of Nevada, Reno.

Senator Bryan is also a Trustee for the National Judicial College, a member of the Board of Trustees for the Las Vegas Metro Chamber of Commerce, Chairman of the Board to Preserve Nevada, Member of the City of Las Vegas Centennial Committee, a Board Member of the Great Basin National Park Foundation and a Board of Director for The Mob Museum. He is admitted to practice law in the State of Nevada and the District of Columbia. Senator Bryan proudly served in the United States Army, 1959-1960, 2nd Lieutenant, Adjutant General Corps and United States Army Reserve, Judge Advocate General Corps, Discharged as Captain.

