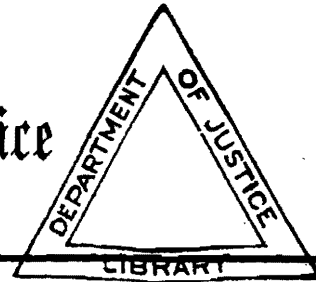




Department of Justice



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**STATEMENT OF THE HONORABLE ROBERT F. KENNEDY,
ATTORNEY GENERAL OF THE UNITED STATES, BEFORE
THE SENATE COMMITTEE ON THE JUDICIARY IN
SUPPORT OF LEGISLATION TO CURB ORGANIZED CRIME
AND RACKETEERING, JUNE 6, 1961.**

Mr. Chairman, I appreciate this opportunity to discuss legislation which we have proposed and which we believe is essential if effective action is to be taken against organized crime.

On the 17th of May, I testified before the House Committee on the Judiciary in support of six of the proposals which are before you today. In addition, this Committee has before it S. 1658 to amend the Slot Machine Act. I would like at this time to submit for the record my testimony before the House Committee.

Before the House Committee I testified about the bills in some detail and I discussed them separately. I told the House Committee that our investigation of the extent to which organized crime and racketeering have developed on an interstate basis convincingly demonstrated the need

for new federal laws. I cited several examples of how hoodlums and racketeers were able to operate beyond the reach of local authorities and reap millions of dollars in illegal profits -- using these profits to cheat honest Americans, corrupt officials and corrode our national strength.

I described the various situations which our investigations have uncovered.

I offered to give the particulars and details to the House Committee in Executive Session and I make that same offer here today.

But rather than repeat that testimony, I would like today to discuss the thinking of the Department of Justice with respect to the over-all effect of our proposals. The danger which faces our country today from organized crime is acute. The reports of the FBI and the many other federal investigative agencies and local police, the reports of a number of crime commissions and state investigative committees, make this danger more apparent every week and every month. And, of course, many of the problems and difficulties in this field have been spotlighted

by investigations by Congress -- such as the work of the Kefauver Committee and the McClellan Committee.

The need for action is clear and the question is what should be done and what can be done effectively to control these hoodlums and racketeers who have become so rich and so powerful.

These people use interstate commerce and interstate communications with impunity in the conduct of their unlawful activities. If we could curtail their use of interstate communication and facilities, we could inflict a telling blow to their operations. We could cut them down to size.

Mr. Chairman, our legislation is mainly concerned with effectively curtailing gambling operations. And we do this, Mr. Chairman, because profits from illegal gambling are huge and they are the primary source of the funds which finance organized crime.

It is very important that everyone realize that the Federal Government has a responsibility to use its interstate power or its taxing power to move against organized crime. Such crimes as gambling, prostitution, bribery and corruption of local officials have been handled

primarily by local authorities. However, over the years Congress has empowered the Federal Government to use the power of the various branches of government to control narcotics, prostitution, auto theft, labor extortion and several other forms of criminal activity.

I wish to emphasize, Mr. Chairman, that we do not seek to preempt the field of enforcement or interfere in any way with the traditional responsibilities of local law enforcement. We wish to meet our responsibilities. We know the record shows that Federal law enforcement work in narcotics, auto theft, prostitution and in many other fields, has been effective; that it has been helpful to local law enforcement and has been carried out without any interference with local law enforcement. The cooperation between the Federal and local law enforcement agencies which exists today is effective. It is essential in getting action against organized crime which is so well organized and so well entrenched on a multi-state basis that local law enforcement often is virtually powerless to act without aid and assistance of the Federal Government.

We would be shirking our responsibility to Congress if we did not come before you and point out that there are three specific areas which Congress can deny to organized crime. These areas are interstate travel, interstate commerce and interstate communication. As I pointed out, they are a vitally necessary part of organized crime. Deny organized crime the use of interstate communications and free movement in interstate travel and interstate commerce, and you strike a heavy blow for law and order. The Congress can do this.

The bills which we have proposed are:

- (1) S. 1656 Prohibiting the use of wire communication facilities for the transmission of gambling information in interstate or foreign commerce.
 - (2) S. 1658 Tightening the prohibitions on interstate shipment of slot machines and similar gambling devices.
 - (3) S. 1657 Prohibiting the interstate transportation of wagering paraphernalia.
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(4) S. 1654 Broadening the Fugitive Felon Act.

(5) S. 1665 Prohibiting obstruction of investigations or intimidating witnesses.

(6) S. 1655 Granting immunity from prosecution in certain circumstances.

(7) S. 1653 Prohibiting travel in aid of racketeering enterprises.

As I have said, Mr. Chairman, one of the prime aims of our legislation is to make it more difficult for gamblers to operate so that organized crime's main source of income is reduced. The gamblers need paraphernalia and equipment to conduct their businesses. They are organized on an interstate basis. They need rapid communications. They need the facilities of interstate travel.

S. 1656

S. 1656 would forbid the use of wire communications -- the telephone telegraph or any other means of interstate wire communications -- for gambling. We have drafted this statute carefully to protect the freedom

of the press. Press information is not vital to the gamblers, but it is important to the American public. Therefore, this bill carries an exception for legitimate news reporting of sporting events. There is nothing in this bill which would in any way affect the press, radio or TV in its reporting of sporting events. In fact, wireless communication was not included in this bill because it is our belief that the Federal Communications Commission has ample authority to control the misuse of this means of communication.

With respect to telephone and telegraph facilities, the bill does not exempt common carriers who provide the service. The companies, therefore, will be subject to the sanctions of this bill. However, if they do not intentionally supply or maintain facilities used for the illegal dissemination of gambling material, they would not be hampered or burdened by this measure. The people who will be affected are the bookmakers and the layoff men who need incoming and outgoing wire communication in order to operate.

Law enforcement is not interested in the casual dissemination of information with respect to football, baseball or other sporting events between acquaintances. That is not the purpose of this legislation. However, it would not make sense for Congress to pass this bill and permit the professional gambler to frustrate any prosecution by saying, as one of the largest layoff bettors in the country has said, "I just like to bet. I just make social wagers." This man, incidentally, makes a profit in excess of a half million dollars a year from layoff betting. Therefore, there is a broad prohibition in the bill against the use of wire communications for gambling purposes.

There are two additional reasons for this. First, when a social wagerer uses the telephone to place a bet with the professional, he uses the same facility as the professional. We felt that it would be an awkward situation legislatively to provide that a social bet sent by telephone becomes professional information in the bookie's office. If the average citizen made a non-criminal wager, the professional could state that he was accepting the same non-criminal wager.

Secondly, we are aware of the dangers inherent in the accumulation of vast amounts of \$2.00 bets. We did not feel that it would be wise to differentiate between the type of wagers being made without implicitly authorizing or condoning the conduct of the non-professional. We do not wish to bring criminal cases against the non-professional bettors, but the Department of Justice could not in good conscience recommend language which might be construed as condoning gambling.

S. 1658

We have proposed two bills to prevent the interstate shipment of materials and machines which are being used in organized crime to fleece the public.

S. 1658 would amend the Slot Machine Act. This bill was not before the House Committee on the Judiciary when I testified last month, since it had been referred to the House Committee on Interstate and Foreign Commerce. Therefore, Mr. Chairman, I would like to go into some detail in connection with this bill.

In 1951 Congress passed the Johnson Act "to prohibit transportation of gambling devices in interstate commerce." This Act was designed

to prevent the shipment of slot machines and other gambling devices in interstate commerce and by so doing lessened the revenue accruing to interstate crime syndicates. It also was designed to aid and assist the states in their enforcement of law, making the possession, sale or use of gambling devices illegal.

Ten years of experience in enforcement of this Act shows that there are serious flaws and loopholes, and that a major revision is necessary.

The Johnson Act now covers a machine which has a drum or wheel with symbols thereon, oranges, cherries, plums, and here and there a jackpot. This is the "one-arm bandit." The Johnson Act describes the operation of this machine as having some element of chance which may deliver or entitle the player to receive money or property. It further describes a machine which is coin operated and, of course, the machine covered by the Act. It also covers the so-called "digger" or "crane" merchandise machine and some variations thereof. However, it does not

cover roulette machines or many other devices common to gambling casinos.

Frankly, Mr. Chairman, there is no logical reason why these devices should not be included within the Johnson Act or should not be banned from interstate commerce. In addition, the existing definition will not extend to a machine in current use which is in every practical respect a "one-arm bandit" -- even to the extent of its physical appearance. The machine I refer to is called a "point maker." On its face is a glass on which are painted the traditional slot machine symbols which I mentioned. Behind the glass are a series of lights which flash on and off until one remains in each column. The machine registers free games which can be played off or paid off. This machine has been contrived by the gamblers to evade the provisions of the Johnson Act. Because it has no drum or wheel, is not coin operated and does not deliver any money directly to the player, it is not covered by the Act.

Another widely used gambling device is the pinball machine.

~~This machine is a gambling device for the purposes of the tax imposed by~~

the Internal Revenue Code (26 USC 4461 & 4462, U.S. v. Korpan, 354 U.S. 271). However, it is not restricted in interstate commerce because it does not have a drum or wheel, nor does it deliver any money directly to the player. These machines also, Mr. Chairman, would be banned from interstate commerce by the provisions of this bill. And I must say that only the broadest kind of definition will overcome the ingenuity of manufacturers in developing devices to circumvent the law.

Another aspect of this bill, Mr. Chairman, to which we call your attention is that transportation of gambling devices in foreign commerce is not now prohibited by the Johnson Act. United States v. Prock, 105 Fed. Supp. 263. As this bill has been drafted, foreign commerce would be included.

In summary, Mr. Chairman, we have proposed a complete revision of the Johnson Act. The proposed bill will revitalize enforcement of the Act which has bogged down. It will curtail the movement of gambling machines in interstate and foreign commerce, and the handicap this will impose upon organized crime is readily apparent.

S. 1657

Besides the gambling devices which I have talked about, much wagering paraphernalia essential to gambling also is shipped in interstate commerce. This paraphernalia is used primarily in bookmaking, wagering pools in connection with sports events and in the numbers racket. S. 1657 will prohibit knowingly sending, or carrying in interstate commerce, any record, paraphernalia, ticket, certificate, bill, slip, token, paper, writing or other device used in gambling.

As experience has shown with the Johnson Act, organized crime has great ingenuity in avoiding the law. The purpose of the broad prohibition in S. 1657, against interstate transportation of gambling paraphernalia, is to permit law enforcement to keep pace with the latest developments in this field. The Post Office Department has suggested that the bill be amended to make shipments of gambling paraphernalia through the mails illegal.

We endorse this recommendation.

S. 1654

We regard S. 1654, broadening the Fugitive Felon Act, as extremely important. The present Act permits the FBI to arrest and turn over to state

officials a person who flees the jurisdiction of a state to avoid prosecution or confinement for certain offenses. This Act has been very helpful to local law enforcement authorities in the past. We recommend increasing the number of crimes involved to include any felony, thereby permitting the Federal Government to give greater aid and assistance to the states.

S. 1665

We also need legislation such as S. 1665 to protect the witnesses in our investigations. Under existing law and court decisions, persons being interrogated by the FBI for example, before the time a proceeding in court or an agency of the Federal Government has been initiated, are not protected against intimidation and coercion. This also applies not only to the FBI but every regulatory agency and department in the Federal Government.

S. 1665 would close that loophole and permit the protection of witnesses at the very start of an investigation when it is so important that our investigators get statements from witnesses who are free of fear and not subject to intimidation or coercion.

S. 1655

Another bill, S. 1655, dealing with immunity of witnesses in labor investigations, is included in our program. Our experience with the investigations under the Taft-Hartley Act and the Hobbs Act disclose an area of difficulty and conflict. For example, if an employer testified about making payments to a labor union representative because of fear of economic injury, he would risk incriminating himself under the Taft-Hartley Act. Similarly, if a labor union employee testifies about bribes received from an employer in order to obtain certain benefits, he runs the risk of being prosecuted under the Hobbs Act -- if the employer asserts that the payments were made in fear of economic injury.

Therefore, we urge that authority be given to grant immunity under certain circumstances to a labor representative who has been bribed by an employer or to an employer who has been the victim of extortion by a labor representative. Through a grant of immunity we could compel the testimony of the least culpable person and perfect prosecution against the person most responsible for the illegal act.

Mr. Chairman, we have one more bill, S. 1653, which is perhaps the most controversial and certainly one of the most important. We are seeking to take effective action against the racketeer who conducts an unlawful business but lives far from the scene in comfort and safety, as well as against other hoodlums.

Let me say from the outset that we do not seek or intend to impede the travel of anyone except persons engaged in illegal businesses as spelled out in the bill. We specifically have outlined the illicit operations we seek to curtail as those involving gambling, liquor, narcotics, prostitution businesses or extortion or bribery in violation of state or federal law.

The target clearly is organized crime. The travel that would be banned is travel "in furtherance of a business enterprise" which involves gambling, liquor, narcotics and prostitution offenses or extortion or bribery. Obviously, we are not trying to curtail the sporadic, casual involvement in these offenses, but rather a continuous course of conduct sufficient for it to be termed a business enterprise.

When the tightly written provisions of this bill are set against the tremendous area of interstate commerce which involves traveling by individuals, I believe it is clear that we have carefully delineated an area of law enforcement which will disrupt the organized criminal syndicates without interfering with general travel.

Our investigations also have made it quite clear that only the Federal Government can shut off the funds which permit the top men of organized crime to live far from the scene and, therefore, remain immune from the local officials. So we believe that the Federal Government has a definite responsibility to move against these people and limit their use of interstate commerce. Let me give you a few brief examples of some of the things we have found, about which I testified before the House Judiciary Committee.

Several individuals, whose names are well known, have interests in a numbers bank but live safely in a resort town far from the scene of the racket. Every month they receive their profits by messenger. One of these

payments totaled more than \$250,000.

The operator of another numbers racket, which operates in New England, lives in a Middle Atlantic state. He or members of his family travel frequently to make payments to the winners and collect the profits.

One of the large layoff bettors in the Middle West travels daily between two states. His layoff business is in one state and he lives in a \$200,000 house in the suburbs of a large city in another state.

An excellent example of how gamblers can frustrate local police is the case of the layoff man who started operating in the Midwest in 1946. He moved to another town in 1949 and then to Newport, Kentucky in 1950. In 1952 he moved to Montreal, Canada, because of the public attention on organized crime focused by the Kefauver Committee. When the Royal Canadian Mounted Police closed in on this man, he moved back to Newport.

We know of a situation which developed in Hot Springs, Arkansas, last year when Louisiana racketeers traveled to Hot Springs in an attempt to move in on the racewire service there. The operator of the Hot Springs

service traveled to Chicago to seek the help of the Chicago rackets overlord in fending off the New Orleans group. If we could show the existence of the racewire service in New Orleans and Hot Springs and the travel which was involved in this particular incident, we could prosecute several top racketeers with the enactment of this bill and it would be a distinct service to the nation.

This very day, a grand jury is looking into evidence obtained in a raid last month in Loudon County, Virginia, which brought to a halt two of the largest numbers operations ever uncovered in the State of Virginia. The bank for these operations was located on a farm in Loudon County, but most of the play was here in the District of Columbia. The runners brought the day's receipts to the farm and after the winners were selected the runners returned to the District of Columbia with the proceeds to distribute them to the winners. This was not a smalltime operation. Evidence was obtained in the raid which indicates that about \$4,000,000 annually was involved in these numbers operations. Eight persons were arrested and all

were implicated in these operations.

However, the United States Attorney is making a presentation to the grand jury against only two of the persons concerned. Under the doctrine set forth in the Ingram case (Ingram v. United States, 360 U.S. 672 (1958)), six of the persons were set free because there is no Federal statute which will permit the Federal Government to prosecute all the persons involved in a numbers operation, even in such a case as this where the defendants deliberately moved the bank from the vicinity of the lottery in order to frustrate local law enforcement. One of these persons involved moved his bank from the District of Columbia to Virginia when the District of Columbia police were closing in on him.

Here is a perfect example of how racketeers, cheating honest American citizens, can cross state lines to escape local law enforcement officers -- hence, remain virtually immune from Federal prosecution. This is outrageous and if the travel bill were law today we would be able to move against all eight of those persons.

Mr. Chairman, there is an acute need for this bill and all the others we are recommending.

The racketeers and hoodlums in organized crime are becoming more powerful, more wealthy and more menacing. We have submitted to you a series of bills through which we know the Federal Government can meet its responsibilities and be of great aid and assistance to local law enforcement. These bills carefully limit the activities of the Federal Government to the most important and the most dangerous problems now facing law enforcement. Our purpose primarily is to prevent transmission of gambling information and equipment in interstate commerce; prevent travel in support of "business enterprises" involving gambling, liquor, narcotics, prostitution or travel involving extortion or bribery and to give the FBI more tools to aid their fellow law enforcement officers.

American citizens who are not connected with organized gambling and organized crime have nothing to fear from these bills. The only toes tread on here are those of the racketeers and hoodlums.
