

From Lionel Sawyer & Collins

Nevada Gaming Law – 3<sup>rd</sup> Ed.

# Chapter 1

## Short History of Gaming And Regulatory Control in Nevada

“**W**hen the history books are written on gaming in this state,” Bill Curran, Chairman of the Nevada Gaming Commission, said in voting to license MGM Grand, “they will focus on what happens today forward, rather than what has happened in the past.” The MGM Grand was then the most ambitious project in the history of gaming.

But, as is the rule in this highly competitive industry, others have come forward to challenge the best and the brightest. The opening of the Bellagio in October of 1998 marked yet another step in the amazing evolution of the Nevada tourism industry. The \$1.6 billion evidences opulence never before experienced in a casino-resort. But, even as it basked in the deserving glow of international media attention, other properties in various stages of completion promise to battle the Mirage-owned property for their share of the tourist dollar.

On the south end of the strip, Mandalay Bay offers Circus Circus vision of the perfect vacation with its luxury accommodations and aquatic features. Others include the new Aladdin, offering European-style gambling through the world-renowned London Club casinos. Likewise, Hilton will debut its Paris hotel.

Among the most visionary is Sheldon Adelson. He has recreated the wonders and sights of ancient Venice in his \$1.4 billion Venetian project, with a second connected hotel set to break ground. The Venetian authentically reproduces the statues, canals, squares and bridges of Venice. Amenities include world-class

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rooms, dozens of the world's best-known restaurants and more convention space than most major American cities.

Moreover, the existing properties have accepted the challenge by renovating and expanding existing properties. In the latest of transformations, the rose on The Desert Inn has re-bloomed and restored its place among the world's finest spas. Likewise, Caesars Palace, MGM Grand, Sahara, and others recently have completed renovations or expansions. Caesars' Forum Shops, now in their expansion, define high-class shopping, easily eclipsing Rodeo Drive in Beverly Hills.

Las Vegas has transformed itself from a gambling town to a tourist Mecca. For those so inclined, one could move from attraction to attraction, from one world-class restaurant to another, for weeks, without ever playing a single casino game. And the tourist has responded. For the first time in its illustrious history, non-gaming revenue from tourism has exceeded gaming revenue in the gaming industry. Both, however, were substantial enough to justify the billion dollar projects.

Las Vegas was not an overnight sensation. How a desert town of a few thousand persons that served as a watering stop for the Union Pacific Railroad became the most novel and imaginative city in the world was, in equal parts, perseverance, vision, capitalism and luck.

Gaming law and regulations played a significant role, providing both the substance and the perception of integrity that allows the Mirage properties to obtain financing through the sale of stock or the Venetian to access bank and bond financing. But, 150 years ago things were different, much different.

It is a tale of strong, independent miners who worked the Comstock Lode in the 1860's. It is a tale of the thousands of workers who risked their lives in the sweltering, Southern Nevada heat to build Hoover Dam, one of the world's greatest feats of modern engineering. And, it is a tale of people who had the courage to rid the gaming industry of organized crime and confront powerful forces in Washington, D.C., who were determined to wipe Nevada's casinos off the map.

Nevada's gaming industry, which generated a casino "win" in 1997 of \$7.8 billion and contributes more than half the state's

budget revenues, could not have evolved without the courage and dedication of Nevada's legislators and regulators.

Hard work and dedication molded a regulatory system that balances the need to control the industry with the freedom necessary to allow it to flourish. This balance took more than 60 years to achieve.

Nevada at the turn of the 19th Century was a rugged frontier. Only the Paiute, Shoshone, and Washoe Indian tribes dared inhabit the dry and desolate region. The first European to set foot in Nevada was noted frontiersman Jedidiah Strong Smith, who crossed the Mojave Desert in 1826 while tracking a route from the Great Salt Lake to San Diego. Nevada was not yet a state. Northern Nevada was part of the Utah Territory, and Southern Nevada was part of the New Mexico Territory.

Other frontiersmen soon followed Smith, including John C. Fremont, who in 1844 led a well-armed expedition of Americans, Germans, and Frenchmen to the headwaters of the Las Vegas Springs. Fremont was 31 when he and his men camped near what is now Las Vegas, a term the Spaniards used to describe fertile or marshy plains. Years later, Las Vegas named a street in honor of the young frontiersman and explorer. Fremont Street today cuts through the heart of downtown Las Vegas, a cluster of bright, neon lights that the locals call "Glitter Gulch." It is one of the most photographed streets in the country, serving as an outdoor sound and film stage for hundreds of music videos, movies, and television shows.

Nevada's first step toward statehood occurred in 1859 with the discovery of the great Comstock Lode on Mt. Davidson, near historic Virginia City. It was the richest silver and gold deposit in the country. For the next twenty years, nearly 60% of the gold and silver produced in the United States came from the Comstock Lode. The gold fever fueled a population explosion. In two years the territory grew from 200 settlers to 20,000.

It was a wild and lawless time. The towns and mining camps were rampant with gambling and prostitution. Virginia City, the territory's largest mining town, had one casino for every 150 residents and a prostitute for every 35 men. One of the town's residents was Samuel Clemens, a young newspaper reporter who later knew fame as the author Mark Twain. In his book "Roughing It," Clemens noted that gamblers were considered prominent

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members of the community. "In Nevada," he wrote, "for a time, the lawyer, the editor, the chief desperado, the chief gambler, and the saloon-keeper occupied the same level in society, and it was the highest."

Debates raged over whether to legalize gaming. Miners in some areas of the Comstock Lode established rules to govern what games they could play. Settlers in the Gold Hill and Flowery districts prohibited bank games such as poker or faro. Without any legal authority, they rarely enforced and largely ignored the rules.

Most casinos were small and in dance halls, saloons, and bordellos. An exception was the casino in the International Hotel in Virginia City, whose guests included President Ulysses S. Grant. The International was luxurious and modern, and equipped with gas lights and a brass elevator. The casino had only table games, such as craps, roulette, poker, faro, and monte. Casinos no longer offer monte and faro because, when played honestly, the house lacks an advantage over the player. Coins were scarce, and gold dust was a common medium of exchange.

Nevada's indigenous Indian population was quick to adopt the miners' gaming habits, perhaps with even greater vigor. The Reese River Reveille, Nevada's pioneer newspaper, referred in its "society notes" to a night of Indian gambling.

"We did not attend the grand ball given by the Paiutes to the Shoshones in Crow Canyon last night," the Reveille wrote, "but Captain Steve informs us that it was a grand success, and that Pine-Nut Jane was the belle throughout the early part of the evening; but that, unfortunately, she became involved in a game of poker with Horned-Toad Sally, in which she lost her gorgeous attire on a queen-full, and her place as belle was taken by the aforesaid Sally. Everything passed off peaceably ..."

Nevada came under territorial rule, and convened a territorial legislature in 1861. Territorial Governor James Warren Nye, for whom Nye County is named, voiced strong opposition to legal gaming. The Territorial Legislature agreed, and enacted a law that prohibited gaming. Operation of a game became a felony and participation in it a misdemeanor. The Legislature offered

prosecutors a \$100 bounty for each conviction. What the lawmakers did not realize, however, was most local prosecutors were not opposed to games of skill and chance.

Despite the bounties, gaming flourished in Nevada's towns and mining camps. There was not one conviction for gambling in Virginia City, and 88 men questioned by the census takers brazenly listed their occupation as professional gamblers.

Although it was one of the least populated territories, Nevada became a state in 1864. Several theories exist for why President Abraham Lincoln pushed for Nevada's statehood over the more populated territories of Utah, New Mexico, Nebraska, and Colorado. The most plausible theory is that Nevada was more supportive of Republican Party policies. The nation was divided between those who, like Lincoln, advocated a strong federal government and those who believed in state's rights.

Slavery was at the core of the debate. Adding Nevada as a state assured Lincoln of two additional votes in the Senate and one in the House. Once admitted to the Union, Nevada's representatives voted for the Anti-Slavery Amendment.<sup>1</sup>

Public sentiment led to the introduction in 1869 of legislation to legalize gaming. Even lawmakers who did not condone gambling were among those who supported the measure. "The only effectual method of restricting gambling," wrote the Nevada Assembly Committee, "is to license it heavily." Governor H.G. Blasdel was against the proposed legislation. "Gambling is an intolerable and inexcusable vice," he said. The Legislature disagreed, and passed the gaming bill over the Governor's veto. The era of legalized gaming in the Silver State had begun.

Those familiar with current gaming regulations would be surprised at what the 1869 Legislature viewed as "heavily" restricted gaming. Anyone could obtain a gaming license. The only regulation was that professional gamblers could not operate a game without a license. The county sheriff issued gaming licenses for a fee ranging from \$250 to \$400 per quarter. Casinos in counties with more than 2,000 voters paid the larger fee. State and local governments split the fees equally. To maintain an appearance of propriety, the law barred gaming in the front rooms of buildings and

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<sup>1</sup> Las Vegas was still not within the boundaries of Nevada, but was part of the Arizona Territory. It was not until 1867 that the Las Vegas Valley was ceded to Nevada.

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prohibited gaming by persons under 17 years of age. The application for a gaming license required only a description of the room where games were to be played.

In 1869, Nevada lawmakers prohibited local governments from passing ordinances making gaming illegal. The state made no effort to control gamblers except to make cheating a misdemeanor. It banned gaming on Sundays in 1877, and raised the legal gaming age to 21. The State Legislature from 1869 to 1909 passed several laws changing the amount and method of collecting gaming taxes. In 1907, the state ordered that all gaming tax revenues, except slot machine taxes, go to the local governments.

Slot machines first appeared in Nevada around the turn of the century. Charles Fey built the first device, dubbed the Liberty Bell, in San Francisco in 1895. The machine was a smashing success in local saloons, enabling Fey to open a factory to manufacture a three-reel machine with ten symbols on each reel. The device was so popular in Nevada that the State Legislature passed a bill in 1905 to authorize licenses for slot machines.

Two laws adopted around the turn of the century reflected the public's attitude toward gaming: that it was a vice to be tolerated, but not encouraged. The Legislature in 1877 prohibited casinos from winning money from gamblers who could not afford the loss. The law was an attempt to protect wage earners who dropped the family's grocery money at the gaming tables. The law was difficult, if not impossible, to enforce. The 1877 Act also limited gaming to the second stories of buildings, except in small counties, where it could be conducted in back rooms. Operators built cleverly designed buildings in Nevada towns dating from this period on slopes, enabling patrons to enter the second floor from the street.

Nevada legislators encouraged enforcement of the laws by offering local prosecutors a \$250 bounty for each conviction. Fines for gaming with "the head of a dependent family or a poor debtor" went to the County Poor Fund. A casino operator convicted of dealing to minors saw his fine directed to the State School Fund. The logic was apparent. The beneficiaries of the fines were those persons whom the law intended to protect.

Gaming remained legal in Nevada for the next 40 years.

The state's economy, once solely dependent on mining, began to broaden in the late 1800's to include livestock, railroads, and some agriculture. The Comstock bonanza dried up by 1881, and Nevada's annual gold and silver production dropped from \$38 million to \$1.4 million. Virginia City lost most of its population, and many of the state's boomtowns became ghost towns. Reno evolved to become Nevada's largest and most modern city and, in 1886, the site of the state's university. Mining activity shifted to the towns of Tonopah, Rhyolite, Goldfield, and Searchlight.

Goldfield and Tonopah's most popular establishments were the Northern Club saloons and gaming halls. The legendary Wyatt Earp was a part owner of the Clubs. After his famous confrontation at the O.K. Corral, Earp began roaming the West. He drifted into Tonopah in 1902, and was hired to run claim-jumpers off the Tonopah Mining Company property. He opened his first saloon in Tonopah, but soon sold out to develop mining claims in Goldfield. He later became a pit boss for Tex Rickart's Northern Club gaming tables. Earp's brother, Virgil, was Goldfield's Deputy Sheriff.

Prostitution, gaming, and liquor followed the miners. Stingaree Gulch in Rawhip opened in 1907 with a single bar. Soon, there was more than a half-mile of saloons, bordellos, and casinos, including The Zanzibar and Ragtime Kelley's. The Gulch also was home to some 500 "working girls." Rickart, never one to miss an opportunity, opened a Northern Club in the Gulch. When patrons complained that they had to venture close to the city jail to get to the saloon, casino, and red-light district, Rickart blasted a new road through heavy rock. Of course, the new path ran next to Rickart's Northern Club. What Rickart realized in 1907 became a mainstay of casino marketing that exists today: the more customer traffic, the better.

Reno by 1909 had shed its mining past. The city's mercantile community, strongly influenced by growing anti-gaming movements in California, launched its own campaign to outlaw gaming in Nevada. The movement coincided with a revival of the state's economy generated by the Tonopah-Goldfield mining boom. The anti-gaming crusade, begun by a coalition of religious leaders, received support from newspapers, civic leaders, educators, key politicians, and women's temperance organizations. The coalition adopted the unoriginal but unambiguous name, "The Anti-Gambling League of Reno."



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The League pushed for a local ordinance to both outlaw gaming and rid Reno of its infamous red-light district. Casino owners and liquor dealers opposed the ordinance. After a contested petition drive, the League got the issue placed on the ballot for the 1909 Reno city elections. It was soundly defeated.

Beaten at the ballot box, the League turned its attention to the State Legislature. Newspaper editorials throughout the state proclaimed the evils of gaming, and urged the adoption of anti-gaming legislation. Typical of the attacks was the following poem in a Reno newspaper:

O Nevada wicked State  
Cut the gambling ere too late  
Lift yourself out of the mire  
Throw the craps game in the fire.

The Reno Gazette reported that the voters in the next election would oust legislators opposed to the anti-gaming bills. The campaign was successful. In 1909, operating a casino became a felony. The Legislature gave operators 20 months to cease operations, after which sheriffs in the various counties were to seize and destroy all gaming equipment. Angered by the legislation, pro-gaming supporters, out of spite, convinced lawmakers to prohibit bridge, whether played for money or not.<sup>2</sup>

The last day of legal gaming was September 30, 1910. The casinos were packed. The legal clubs were closed shortly before midnight, most of their equipment and dealers destined for illegal games conducted elsewhere. With the legal games gone, the illegal games began almost immediately. Only weeks after the casinos closed, a Reno newspaper reported: "There is a place in town where the roulette wheel spins nightly and where the faro bank is dealt of old."

The anti-gaming mood had shifted by 1913. Even Governor Tasker L. Oddie, regarded as a staunch moralist, claimed the law was too restrictive because it "made no distinction between card

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<sup>2</sup> The movement resulting in the prohibition of gaming is chronicled in Phillip I. Earl's article, "Veiling the Tiger: The Crusade Against Gambling, 1859-1910," *The Gambling Papers: Proceedings of the Fifth National Conference on Gambling and Risk Taking*, Vol. VIII, 147 (UNR 1982).

playing and other games for recreation and actual gaming ....” With Oddie’s support, lawmakers allowed social games played for cigars, drinks, or small prizes.

Legal gaming was the major issue in the 1914 gubernatorial campaign. Oddie called his opponent, Emmett Boyle, a friend of gamblers. Oddie said voters had to choose between “gambling and divorce on one hand and the university on the other (because the) two cannot flourish in the same atmosphere.” Boyle won the election. But, Oddie’s prediction that legal gaming would soon return to Nevada proved false.

From 1915 to 1931, the State Legislature merely tinkered with the law. In 1915, legislators approved a bill permitting slot machines that awarded prizes that did not exceed \$2 in value, and poker and similar games that alternated the deal. Legal games largely went unplayed. Instead, the growing number of illegal casinos generated the public’s business.

“This patchwork law remained in force for 16 years,” wrote historian Oscar Lewis, “during which time it was, by all accounts, either ignored completely or so feebly enforced as to be worse than useless. Games allowed in the licensed houses had little appeal to the gaming public, which accordingly shunned them and patronized instead the numerous undercover resorts that promptly sprang up.”

The Great Depression launched the modern era of gaming in Nevada. Declining state revenues and the diminishing popularity of the temperance movement brewed strong sentiment to legalize all forms of gaming. The public perceived casino gaming as a vehicle to increase business and provide needed tax revenues. The potential for additional tax revenues also fostered legislation in 1931 to make Nevada the divorce capital of the nation. The law enabled persons to obtain a divorce after a mere six weeks of residency in Nevada.

Nevada’s anti-gaming forces remained strong, however, and most lawmakers were unwilling to risk their political future by fronting a gaming bill. The task eventually fell to a freshman lawmaker from a small rural county who, for his bravery, would earn the title of founder of Nevada gaming.

Humboldt County Assemblyman Phil Tobin, in 1931, introduced a bill to legalize casino gaming. He was not, however, the bill’s author. “One of the assemblymen from Elko, and I don’t remember his name, had the bill in his desk but he was scared to

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introduce it,” Tobin recalled. He believed Nevada needed gaming tax revenues. He also believed the anti-gaming laws were unenforceable, and illegal gamblers corrupted the police. “I was angered by the local sheriff who tried to raise his payoff on graft on the games from \$50 to \$75, which was a lot of money in those days,” Tobin said.

The bill faced formidable opposition. The Public Morals Committee hearing on the proposed legislation attracted about 200 preachers and women from Reno, all of who were anxious to speak out against the bill. When Tobin walked into the hearing room, a woman opposed to what she perceived to be a wicked piece of legislation, shot an astonished glance at Tobin. “He looks like such a nice young man,” she said.

The bill passed. The Assembly vote was 24-11. The Senate vote was 13-3. Governor Fred B. Balzar signed the bill into law on March 19, 1931.

Phil Tobin, the “nice young man” responsible for bringing legalized gaming back to Nevada, was neither a gambler nor a heavy drinker. After leaving public service, he returned to a remote section of Northern Nevada, and resumed his career as a cattle rancher. He never set foot on the Las Vegas Strip.

The law legalized “wide open” gaming. A person did not have to obtain a state license to conduct gaming. Instead, the potential casino owner only had to obtain a local license from the county sheriff and, where mandated by local ordinance, from any incorporated city or county. License fees were \$25 per month for each table game and \$10 per month for each slot machine. The fees were divided between the state (25%), the county (25%), and the city or town (50%).

In its original form, the 1931 Act did not regulate gaming. The only qualification for licensing was that applicants be American citizens. Eight days after Balzar signed the bill into law, the Legislature rectified the oversight by granting local authorities the power to regulate or prohibit gaming.

Nevada had no casino mega-resorts in 1931. Nor did the state have a massive tourism industry. Gaming was little more than a diversion for residents, soldiers on leave, and even prison inmates. The Nevada State Prison, in 1932, authorized inmates to maintain

and operate a casino within prison walls.<sup>3</sup> Nevada had special coins minted of brass for use in this casino operation. When brass became scarce during World War II, the state created “paper money” out of canvas.

The first challenge to the authority of local governments to regulate gaming came two months after passage of the new law. Applicants for a casino license sued the City of Las Vegas for denying their gaming license, claiming the City acted beyond the scope of its authority.<sup>4</sup> The City defended the suit by claiming there were already six licenses issued, and that the public interest did not favor additional licenses.

The Nevada Supreme Court upheld the city’s action by drawing a distinction between gaming, a calling of “deleterious tendency,” and those trades and occupations considered useful. The court concluded,

On account of the nature of the business, which is capable of being so conducted as to be a source of evil, a very wide discretion is thus conferred, not only to restrict the number of licenses in the City, but to pass all reasonable rules and regulations concerning it which the City authorities may deem necessary for the police government of the municipality.

With this decision, the authority of the government to regulate gaming withstood the first of many tests.

Legal gaming in Nevada underwent a major transformation during World War II. Before 1945, casino gaming was largely restricted to the backrooms of saloons. The games generated little public interest. Nevada did not directly tax casinos, and state services were not dependent on gaming revenues. Some saw Nevada’s potential as a resort destination, but few accepted the challenge. Reno had only a few clubs, and the Las Vegas Strip was largely undeveloped desert. The first major Strip resort, the El Rancho Vegas, was built in 1941. It was a ranch-style motel with a showroom and a neon windmill out front. Business was lousy.

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<sup>3</sup> John R. Goodwin, Professor of Hotel and Casino Law, College of Hotel Administration, University of Nevada, Las Vegas, reports the full story of this gambling operation in his textbook, “Gaming Control Law, the Nevada Model.”

<sup>4</sup> State ex rel. Grimes v. Board of Commissioners of City of Las Vegas (1931).

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Air conditioning and the growing popularity of the automobile in the early 1940's caused an explosive growth of Nevada's gaming industry. The cool casino breezes made the blast-furnace heat of a Southern Nevada summer tolerable. And, the automobile transformed Las Vegas into a weekend playground for gamblers from Southern California. Western Airlines began flights to Las Vegas, providing yet another boost to the state's tourist trade.

Las Vegas' population tripled from 1941 to 1945. Fremont Street boomed with new casinos. The modern era of gaming in Nevada had begun. The gaming industry's growth did not go unnoticed by Nevada lawmakers. Between 1931 and 1945, the state did not attempt to tax casinos. It merely allowed local governments to collect fixed license fees. However, city and county officials did not do a very good job. The Legislature, in 1937, passed a resolution condemning the "deplorable lack of enforcement of the law that requires a separate license for each gambling game." Lack of enforcement meant less tax revenue, so legislators directed the State Attorney General to convince local district attorneys to enforce the law.

Lawmakers, in 1945, created a state casino license as a method of assessing and collecting a tax on gaming revenues. The initial tax was calculated at 1% of gross casino revenues (*i.e.*, total cash won less cash paid out as losses) exceeding \$3,000. The tax generated about \$100,000, an insignificant amount of the total state budget. The Nevada Tax Commission became the regulatory authority for the gaming industry.

The potentially lucrative industry caught the attention of legitimate developers and less-than-legitimate organized crime figures. The most celebrated of the mobsters was the handsome and wealthy Benjamin Siegel, a member of the New York crime syndicate, "Murder, Inc." Siegel was known by the nickname "Bugsy," a moniker the hot-tempered gangster detested.

Siegel had amassed a considerable fortune through his monopolistic control of the wire services that fed race information to legal sports books. He extracted astronomical sums of money from the legal Nevada bookmaking operations totally dependent on the wire services for their very existence. From his headquarters at the

El Rancho, Siegel envisioned the development of the world's grandest hotel, the fabulous Flamingo.

When Siegel first presented his notion for the Flamingo to the Las Vegas Chamber of Commerce, he said an East Coast distiller would build the resort hotel. The representation was at least partially true; many of Siegel's associates were bootleggers during prohibition.

Siegel used his political connections to secure scarce, but costly, building supplies. Financial projections were not Siegel's strong suit, however, and he exceeded his \$1 million budget by \$6 million. The cost overruns did not endear Siegel to his financial backers. In 1947, months after the Flamingo opened for business, Siegel was shot dead in his Hollywood, California, home. His vision, however, outlasted his life. Las Vegas was about to become a boomtown.

With the sudden popularity of casino gaming came major changes in marketing techniques. Before World War II, about all casino operators would do in the way of marketing was to sweep the floor and open the door. Occasionally, the owner would forget to sweep.

Harold's Club, the ancestor of modern gaming, was one of the first businesses to move its casino from the backroom. The casino was clean and well lighted. An advertisement was placed on the street, and a mural was painted on the building's façade depicting the Old West under a sign that read: "Dedicated In All Humility To Those Who Blazed The Trail." Next door, pioneer gaming operator, William Harrah, took the idea further; opening a casino with glass doors to allow passersby a glimpse at the action inside.

Casinos began booking big-name entertainers, beginning with Newton Crumley Jr., whose father owned the Commercial Hotel in Elko. Crumley hired Ted Lewis and his band. Lewis was well known for coining the phrase, "Is everybody happy?" The act was a success, and Jimmy Dorsey, Sophie Tucker, and Lawrence Welk followed Lewis.

While Nevada's fledgling gaming industry began to grow, lawmakers in California were cracking down on the state's illegal casinos in that state. Many California operators moved to Nevada, particularly Lake Tahoe. With the new crop of gamers came allegations of cheating. Some failed to obtain state licenses. In the fall of 1947, one of the new faces in Nevada, Harry Sherwood, part-

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owner of the Tahoe Village Casino, was shot and killed in his casino. His partner, Louis Strauss, was arrested but later cleared of all charges in connection with the shooting.

Angered at the violence and cheating, the Nevada Tax Commission, in April 1948, summoned Lake Tahoe operators to a meeting. The Commission ordered 60 individuals from 13 clubs to attend the session, including Elmer "Bones" Remmer, owner of the Cal-Neva, and Eddie Sahati, owner of the Stateline Casino. San Francisco police were pressuring Remmer and Sahati to close their illegal casinos in California. Their Nevada clubs were operating without licenses.

Only 25 operators showed up for the meeting. Tax Commissioner Bill Moore sternly warned the group to "put square dice and new decks on the tables." He also cautioned them against roughhouse tactics by casino employees, and said Commission investigators would visit Lake Tahoe casinos throughout the tourist season.

"Operators of the Tahoe area as well as others throughout the state have an obligation to pay the State of Nevada," Moore said of the licensing violations and allegations of cheating. "This is the only state in the Union where gaming is allowed on a legal and above-board basis. It's high time we consider it as such."

The gaming industry at the time was luring a growing number of motoring tourists to Nevada. Many of them complained of being swindled by "roadside zoos," a term used for zoos, pioneer museums, and other highway attractions serving as fronts for crooked gaming operations. Tourists stopping to view the attractions would occasionally be lured into illegal backroom games, such as Indian chuck-a-luck, where they would quickly be parted from their money.

One tourist, who claimed to have been swindled by a roadside museum operator in Eureka County, in 1948, filed a criminal complaint, only to learn the Sheriff was protecting the illegal operation. The local Justice of the Peace dismissed the charges.

One of three men in the ghost town of Rhyolite, who was arrested and convicted for running a zoo, claimed to have paid the State Police for protection against prosecution. A Nye County grand

jury found no evidence that state or county officials allowed the Rhyolite zoo to operate without a license.

Governor Vail Pittman was angry with the growing number of crooked operations sprouting from the desert along Nevada's highways. "We've spent millions of dollars on good roads to attract tourists," Pittman said, "and we're not going to stand for them being fleeced."

Although 1945 amendments to state law created the requirement for a state gaming license; the document was merely a vehicle to collect tax revenues and did not bestow on the Tax Commission any regulatory authority.

Following the death of Benjamin "Bugsy" Siegel in June 1947, Nevada Attorney General Alan Bible issued an opinion that led to state involvement in the regulation of casino gaming.

Before Siegel's murder, no explicit provisions in state law allowed the Tax Commission to consider the character of an applicant in rendering a decision on the issuance of a gaming license. The Commission could, however, pass regulations necessary to administer the gaming laws. Bible, in his opinion, said those provisions allowed the Commission to adopt regulations requiring "inquiry into the antecedents, habits, and character of applicants in order to satisfy the Commission that they will not violate the gambling law ... prohibiting thieving and cheating games ...." He told the Commission that if it "finds reasonable ground to apprehend that the grant of a license would be against the public interest, you would be within the powers delegated to you to refuse the license."

The opinion came as a surprise to state officials, including Pittman, who served as Chairman of the Tax Commission. "Nevertheless, I accept the responsibility and will continue to act in accordance with the law as I understand it," he said.

The Commission exercised its new authority at its January 1948 meeting by denying five license applications. Of course, at the same three-day hearing, it considered and approved about a thousand other applications. The agency was woefully understaffed. It had an inspector and one accountant to collect and enforce the gaming tax.

Consistent with Bible's opinion, the Nevada Legislature, in 1949, formally set in law its blueprint to rid the gaming industry of organized crime by shifting licensing authority from local to state



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government, and giving the Tax Commission the authority to regulate gaming.

The amendments stated that a person could not operate a game without first obtaining a state gaming license. The Tax Commission was to administer the law for the protection of the public interest, and enact regulations necessary to carry out that goal. The Commission's charge included obtaining "information concerning the applicant's antecedents, habits, and character."

The 1949 amendments allowed the Commission to require the fingerprinting of casino employees. "A great many of the old crossroaders (professional cheaters), who were still alive at that time were wanted by the police in one place or another," a casino operator said. "They did not want their fingerprints taken, so the only thing for them to do was quit their jobs and leave the state."<sup>5</sup>

The 1949 amendments have had a lasting influence on Nevada gaming for two reasons.

First, the amendments established a system for the regulation of gaming that allows gaming authorities to carry out broad legislative policies through the adoption of regulations. For example, the 1987 Legislature spent many hours considering the potential threat from corporate raiders, "greenmail," and corporate reorganizations to the stability of Nevada gaming. Ultimately, the Legislature established broad policies regarding the regulation of these matters, and empowered the gaming authorities to adopt regulations if further action was necessary.

The amendments also placed an emphasis on the application process. Without question, the application process today is the most thorough aspect of Nevada regulatory control. The objective was to keep the industry clean, even at a cost of excessive caution. Not everyone agreed with this philosophy.

"In the old days it was just that we didn't want (hoodlums) to be the controlling interest of the gaming business as a whole," a former gaming regulator said. "I never questioned that the public might not get just a good a break from a place being operated by those

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<sup>5</sup> Kenneth Scott, *The Big Apple: Nevada's Legalized Gambling*, 12 (Vantage Press 1972).

persons. Because they, knowing their reputations, would be more careful than ever to operate a good place.”

Threat of federal intervention in the 1950's gave Nevada added incentive to build an effective regulatory system.

Senator Estes Kefauver of Tennessee in 1950 chaired a U.S. Senate Committee, commonly known as the Kefauver Committee, to investigate organized crime's influence in America. Kefauver was an aspiring presidential candidate. The Committee investigation propelled Kefauver into the national spotlight and, as a result, he ran a close second to Adlai Stevenson in selection of the 1956 Democratic presidential nominee and became his running mate.

The Kefauver Committee report was critical of the Nevada regulatory apparatus. “The licensing system which is in effect in the state has not resulted in excluding the undesirables from the state,” the Committee wrote, “but has merely served to give their activities a seeming cloak of respectability.” The Committee concluded that many casino owners were members of organized crime or “had histories of close associations with underworld characters who operate those syndicates.”

Many Nevadans, including gaming administrator Robbins Cahill, believed Kefauver was unfair. “I felt about Kefauver and his Committee, and I've never changed my mind, that they were opportunists to (an) extent,” Cahill said. “They may have believed in the things they were doing, but there was no question in my mind ... that Kefauver was promoting his candidacy for president by being against sin and for motherhood ....”

Regardless of how Nevadans felt about Kefauver, the state's regulatory system needed improvement. Testifying before the Committee, both Nevada's Lieutenant Governor and its Tax Commissioner admitted that the state made little or no effort before 1949 to screen gaming license applicants. “The State of Nevada should have a more comprehensive control of gaming,” conceded Governor Charles Russell.

Nevada's gaming industry was threatened. The message was to clean up the industry, or the federal government would close it down. But, the state had a powerful champion in U.S. Senator Pat McCarran of Nevada. McCarran was Chairman of the Senate Judiciary Committee and a senior member of the Appropriations Committee. The Washington Post noted in July 1952, “It sums up

the character of this Congress to state an unquestionable fact: that its most important member is Patrick A. McCarran.”

McCarran led the fight, in 1951, against a proposed federal law to assess a 10% tax on the gross receipts of all gaming transactions. The tax would have forced the closure of virtually every Nevada casino and sports book. Nevada’s economy would have been devastated. “If ... the proposed tax is intended to suppress all gaming, whether legal or illegal, throughout the United States, it goes far beyond the recommendations of the Kefauver Committee,” McCarran said.

McCarran convinced Congress to pass a modified bill that exempted card games, roulette, slot machines, and dice. It would be a bureaucratic nightmare for the federal government to attempt to regulate the games for tax purposes, he said. The compromise bill included racebooks, but exempted pari-mutuel wagering.

The modified tax crippled the state’s 25 racebooks. Twenty-one of them went out of business, claiming the tax prevented them from making a profit. The Reno Evening Gazette, a longtime opponent of legal gaming, said closure of the racebooks cost Nevada \$200,000 in tax revenues. The paper claimed the loss “fulfills the warning made years ago that the state government was following a poor and risky policy, and tying its welfare too close to the gambling industry.”

While McCarran staved off federal efforts to legislate gaming out of existence, the state took on the task of ridding the industry of its undesirables. A full-time administrative agency, the Gaming Control Board was created in 1955. The Board would serve as the investigative and enforcement arm of the Tax Commission.

“The purpose of this (two-tiered) system was that this Board would delve into all applications, would report them to the Nevada State Tax Commission, which would then have a final approval,” Governor Charles Russell said.

While the Gaming Control Act of 1949 gave the Tax Commission authority to consider the suitability of applicants for gaming licenses, little was done. Before 1955, the Commission adopted just five pages of regulations. The system enacted in 1955 was much more comprehensive. It gave the Commission and the newly created Gaming Control Board authority to investigate

applicants' business probity, and their ability to finance projects and generate working capital.

Strip construction soared in the early 1950's. Among the first of several new casino-resorts to sprout from the Mojave Desert sands was Wilbur Clark's Desert Inn, built in 1950 by Wilbur Clark. Clark had hoped to be the sole owner. But, financial problems forced him to take on partners Moe Dalitz and Lou Rothkopf, two Cleveland gamblers with reportedly links to organized crime. The Desert Inn was not Clark's first gaming venture. He previously invested in the Lux, a famous gambling ship operated by Tony Cornero off the coast of Long Beach, California.

The Sands and Sahara Hotels opened for business in 1952, followed in 1954 by the Riviera Hotel, the Dunes Hotel, and the Royal Nevada, which later became part of the Stardust Hotel. The Showboat Hotel on Boulder Highway and the Moulin Rouge on Bonanza Road also opened in 1954.

Known as "the Mississippi of the West," Nevada in the 1950's was not a progressive state when it came to civil rights. Black employees and entertainers could work in the major hotels, but they were not permitted to eat in the restaurants or sleep in the guestrooms. The Last Frontier required black performers to eat on picnic tables in back of the hotel before performances. After the show, black headliners at the hotel were driven by taxis to boarding houses in West Las Vegas.

One of the most popular boarding houses was the nine-room Harrison's Guest House. Entertainers Sammy Davis, Jr., Lena Horne, and Pearl Bailey all stayed at Harrison's. Many of the country's finest black entertainers performed at the Moulin Rouge, which was located in the midst of a predominantly black neighborhood. The hotel-casino became an after-hours meeting place for black artists performing at the Strip hotels.

The industry's first financial shakedown occurred in 1955. The Moulin Rouge, despite a good cash flow, was unable to pay its debts. Elsewhere, Major Riddle took over casino operations at the financially-strapped Dunes. The Riviera changed hands, and the Royal Nevada closed after the Tax Commission refused to allow transfer of its license to owners of the Desert Inn.

The failure of these hotels occurred during a period of prosperity for the Nevada gaming industry. The Strip's gross gaming revenue, in 1955, was 25% higher than the previous year.

Russell blamed the failures of the four hotels on “inadequate financing prior to the issuance of a gaming license.” The newly formed Gaming Control Board took the hint, and began requiring applicants to complete financial questionnaires to assure they could meet their financial obligations. “We want to know whether these people have put their last dollar into one of these projects,” a Board member said.

Reacting to the surge of new casino construction, the Tax Commission adopted a regulation in February 1956 stating that a license could be denied if additional competition was harmful to the public welfare. The rule was adopted about the time developers of the proposed Hacienda Hotel filed an application for a gaming license. “There’s no question in anybody’s mind that the economic factor in Las Vegas at the moment would preclude the building of any new hotels,” a Tax Commissioner warned.<sup>6</sup> Board Chairman Robbins Cahill said a public debate on the issue of over-saturation of the casino industry was needed to “stop Las Vegas from sticking its head in the sand and telling the rest of the nation everything is fine, come on in, and build more hotels.”

The new regulation ignited a civil war of words between politicians and business leaders in Southern and Northern Nevada. Members of the Las Vegas Chamber of Commerce, irate at the regulatory attempts to slow hotel construction in the valley, demanded a meeting with Governor Russell to discuss Cahill’s remarks. “The Legislature practically told the Governor to fire Cahill,” said prominent Southern Nevadan M.J. Christensen, “but he won’t do it.”

Entering the fray, the Reno Evening Gazette editorialized: “Like a slovenly housekeeper who sweeps the dirt under the rug, Las Vegas is trying to hide its shortcomings from the rest of the world.” The Gazette claimed opposition to the new regulation by Southern Nevadans was an attempt at “iron-censorship of such facts as the attempts of gangsters and racketeers to move into the Nevada gambling business or the reckless speculation and financing in some of the resorts or the fact that the gambling bonanza has its limits.” The Las Vegas Sun accused Northern Nevadans of being

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<sup>6</sup> Las Vegas Sun, February 23, 1956.

resentful of a surge of development in the Las Vegas Valley that threatened to tip the scales of political clout to the south.

The Sun campaigned to have a Southern Nevadan appointed to the Gaming Control Board. Its three members—Chairman Cahill, Reno accountant Newell Hancock, and former FBI agent William Sinnott—were all stationed in Carson City. Paul McDermott, a Tax Commissioner from Las Vegas, resigned when the Governor refused to station a Board member in Las Vegas.

The casino failures of 1955 did little to discourage investors. The Fremont Hotel, promoted as “Nevada’s tallest building,” debuted in downtown Las Vegas in 1956. The Hacienda opened the same year as part of a chain that included hotels in Bakersfield and Fresno, California. The Hacienda was the first hotel to target the middle-class gambler with giveaways and free flights. The Tropicana and Mint Hotels opened in 1957.

Licensing problems and financial tribulations preceded the premiere of the Stardust in 1959. The hotel’s chief financial backer was Tony Cornero, an infamous California casino operator who waged a long-standing legal battle with authorities over the operation of the Rex, a British-built square rigger that in the 1930’s served as a floating casino off the coast of Long Beach, California. Perhaps the most famous gaming ship in the country, the Rex had a 400-foot saloon on its main deck equipped with roulette wheels, craps tables, and other gambling games. The boat made a net profit of \$300,000 a month.

California Attorney General Earl Warren targeted the Rex following his election in 1938. Warren issued a notice of abatement against the Rex, but Cornero ignored it. Authorities attempted to raid the boat on August 1, 1939, but the ship’s crew kept the raiding party at bay with fire hoses. Cornero held out on the boat for nine days, but finally surrendered on August 10. A court order was issued the next day, closing the casino. Cornero appealed the order, and the case eventually reached the California Supreme Court, which, in 1946, ruled the Rex was within California’s jurisdiction.

That same year Cornero made another attempt at operating a floating casino. He purchased a World War II minelayer, equipped it with roulette wheels and craps tables, and anchored it five miles off the coast of Long Beach. The Lux operated for just a short time

when the federal government raided the vessel, and successfully libeled it for violating its coastal license.

Cornero then came to Nevada and began building the Stardust, knowing he did not have money to finish the job but hoping the project would stir the interest of other investors. It did not. The Tax Commission compounded Cornero's problems by denying him a gaming license.

Leasing the hotel for \$6 million a year was a potential loophole of which Cornero hoped to take advantage. Neither state law nor gaming regulation allowed the Commission to determine whether landlords met minimal standards of suitability. Ed Olsen, an Associated Press bureau chief, who later became Chairman of the Gaming Control Board, said the void in the state's regulatory system could open the way for gangsters to build hotels and lease the casinos.

Cornero never had the chance to take advantage of the loophole because he died in 1955 while gambling at the Desert Inn. Shortly after Cornero's death, the Stardust went bankrupt.

The gaming industry remained in dire need of restructuring in 1958 when Grant Sawyer, a young, progressive Democrat from Elko County, began his candidacy for Governor. Few gave Sawyer a chance. He was regarded as an unknown from a cow town. Undaunted, Sawyer ran a tireless campaign. He adopted the slogan: "Nevada is not for sale." His shocking victory was proof that the people of Nevada were ready for change.

Sawyer's first act as Governor was to sign a bill taking control of gaming from the Tax Commission and giving it to a new, independent agency, the Nevada Gaming Commission. The Commission was composed of five members. The Governor appointed the members, but did not serve on the Commission. Sawyer's first appointments included two FBI agents and a former U.S. Attorney.

Sawyer had a strong mandate for the new Commission. "Exhaustive investigations (must) be made as to present licensees in order to be as certain as humanly possible that criminal elements, mobs, or syndicates have neither interests nor control of existing businesses," he said.

While the Gaming Control Board continued to conduct investigations and administer gaming regulations, it had more autonomy than it had under the Tax Commission. Previously, the Board Chairman served as Secretary to the Commission. Under Sawyer's Bill, the Commission and Board were independent agencies. Sawyer appointed a former assistant to FBI Director J. Edgar Hoover as the new Board Chairman, and doubled the agency's budget. His revisions launched the modern era of gaming control in Nevada.

Some feared Sawyer's crackdown came too late to save the industry. Magazine and newspaper articles claimed mobsters were entrenched in Nevada casinos. Life Magazine in 1960 reported that the mob was planning to get out of the narcotics business and muscle in on Nevada gaming operations.

At the same time, Nevada's casinos became increasingly important to its economy. The gaming industry in 1959 generated 21.9% of the state's taxes. It directly employed thousands of Nevadans. Potential moves by the federal government against the gaming industry posed a serious threat to Nevada's future.

U.S. Attorney General Robert Kennedy was aware that millions of dollars were lent to Nevada casinos by the Teamsters Pension Fund, headed by his longtime nemesis, union boss Jimmy Hoffa. In May 1961, Kennedy asked the Nevada Attorney General to deputize 50 federal agents, and raid a number of casinos. Sawyer believed the raids would generate immense negative publicity that would be devastating to the state's economy. He flew to Washington, D.C, where he met with both Robert Kennedy and his brother, President John F. Kennedy.

The raids never took place. Instead, a cooperative agreement was worked out to allow federal agents to work with the Gaming Control Board to conduct investigations of Nevada casinos. The FBI staff in Las Vegas was tripled. The U.S. Internal Revenue Service was staffed with 40 experts to investigate alleged skimming operations.

But, Nevada's fight with Washington did not end. On June 25, 1963, Carl Cohen, a 10% shareholder in the Desert Inn, discovered two tiny microphones in his hotel suite. It was the first evidence of widespread wiretapping of offices and homes of casino executives by the FBI. The FBI's cover for the operation was a bogus business called Henderson Novelty Company.



Despite the wiretaps and the expanded FBI office, the Nevada Gaming Commission reported that “none of the federal agencies involved in the investigative activities mentioned have ever seen fit to make available to Nevada officials any concrete evidence or information to substantiate their oft-repeated suspicions of federal or state tax evasion stemming from skimming.”

An angry Sawyer wrote a letter to Robert Kennedy dated November 13, 1963, that included several news articles that the Governor said “carried political implications which could have far-reaching effect ... (and) noted a flagrant federal encroachment into local government.” The letter also included copies of the Nevada wiretap law. “I am confident that you would not authorize or condone the perpetration of a criminal act by someone under your jurisdiction and control,” Sawyer wrote. “Hence, this is called to your attention with the thought that you may wish to initiate an appropriate inquiry.”

Lieutenant Governor Paul Laxalt was more abrupt. “There is a premeditated plan by someone on a Washington level, and (we) all know who he is, to make himself a tin hero at the expense of the state, and we Republicans are not going to let him do it,” Laxalt said.

Tensions between Sawyer and his enemies on Capitol Hill increased with the approach of Nevada’s 1966 gubernatorial election. Sawyer was seeking a third term in office. His opponent was Laxalt.

The rift between Nevada and Washington was a major issue in the campaign. Sawyer called the FBI’s activities in Nevada a “silent war” against the state. He filed formal complaints with President Lyndon Johnson and U.S. Attorney Nicholas Katzenbach. “I will not surrender the right of this state to determine its own affairs to any agency of the federal government,” Sawyer pledged.

Laxalt accused Sawyer of waging “a senseless running war” and promised, if elected, to seek a reconciliation with FBI Chief Hoover. In a remarkably bold move, Hoover wrote a letter to the Las Vegas Sun attacking the Sawyer Administration, and claiming that skimming was going on in Nevada casinos. Laxalt won.

Reclusive billionaire Howard Hughes helped put an end to Nevada's battles with the federal government and, in doing so, altered the course of gaming in the Silver State.

His coffers loaded from the sale of Trans World Airlines in 1967, Hughes moved into a room atop the Desert Inn and began buying up casinos. The Desert Inn was the first. He eventually bought six others, all within view of his penthouse suite. The Hughes Corporation still owns thousands of acres of the Las Vegas Valley originally bought by Hughes. It is the developer of the world-acclaimed residential development called, Summerlin.

Contemporaneously with Hughes' move to Nevada, the state adopted a law allowing publicly-traded corporations to own casinos without requiring their thousands of shareholders undergo costly and time-consuming licensing investigations. Passage of the Corporate Gaming Act of 1967 and a controversial 1969 Bill eventually prompted several large and respected companies to begin buying and building hotel-casinos. Hilton, MGM, Holiday Inns, Ramada, Hyatt, Del Webb, and others suddenly got into the gaming business. Ownership of the casino resorts by Hughes and these other well-known companies legitimized the industry.

By the late 1960's, gaming taxes were the major source of funding the state budget. Still, concern about the state's dependence on the casinos and its ability to regulate the gaming industry persisted. Most Nevada lawmakers were confident they could do the job.

So, too, were members of the Commission on the Review of the National Policy Toward Gambling. "Serious questions arise as to whether a state that relies so heavily on a single industry for its revenue needs is truly capable of regulating that industry properly," the Commission concluded. "The Nevada control structures have stood the tests of time and, often, bitter experience ...."

The gaming industry's crucial role in Nevada's economy presented a dilemma for the state's gaming regulators. No longer could the Gaming Control Board and Commission decide licensing and disciplinary matters in a vacuum. They had to strike a balance of regulatory and economic concerns in weighing the consequences of their rulings.

Adoption of the Corporate Gaming Act grew out of this need to control and regulate the industry, yet allow it to flourish. Public companies have a greater access to sources of capital needed to

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expand existing casino properties and build new ones. Making it easier for public companies to participate in the gaming industry greatly accelerates growth.

State legislators wrestled with the possibility of licensing corporations from 1963 to 1967 without changing the law. Nevada's Gaming Policy Committee launched a study of the issue in 1967. A chief regulatory concern was whether the entry of public companies would result in unbridled stock speculation in gaming properties. There also was a fear that failure of speculative stock offerings in gaming ventures would lead to federal intervention.

The Nevada Gaming Commission adopted Regulation 15 in August 1967 to govern corporate licensees. The regulation distinguished between the "registration" of publicly-held parent companies and the "licensure" of wholly-owned, private subsidiaries. But, the law still made it impractical for public companies to participate in the gaming industry. It required that each shareholder agree to a covenant not to trade his or her stock without obtaining prior approval from Nevada regulators. It also required that companies maintain and reveal the names and addresses of their shareholders.

Public companies stayed away from Nevada's gaming industry, and the Gaming Policy Committee went back to the drawing board. Nevada legislators, in 1969, debated passage of a controversial bill to allow public companies to own gaming subsidiaries without mandatory background investigations and licensing of all of their shareholders.

Las Vegas casino companies seeking capital to remain competitive in the growing Southern Nevada market supported the proposed legislation. They argued that involvement of public companies in casino gaming would increase investment, improve the industry's image, and promote greater accountability.

Casino companies in Reno, where the gaming industry was at a standstill, were opposed to the bill. Northern Nevada industry executives argued that the bill could be used to conceal ownership by undesirables.

Southern Nevada emerged victorious, and the bill was enacted into law.

The legislation did, indeed, encourage and broaden investment opportunity through corporate pooling of capital and resources. Public companies today generate about 46% of the State's gaming revenues. And, companies like MGM, Starwood, Harrah's Entertainment, Boyd Gaming, IGT, Aztar, Lady Luck, Anchor Gaming, Primadonna, Station Casinos, Mirage Resorts, Circus Circus, Park Place Entertainment, and the many other public companies are expected to lead Nevada into the next millenium.

