

#### Testimony of James Browning of Common Cause/Pennsylvania

#### To the New Hampshire Gaming Study Commission

November 17, 2009

#### Dear Chairman Lietz and Members of the Commission:

Thank you for this opportunity to testify about the potential expansion of legalized gambling in New Hampshire. I am James Browning, Director for Development for Common Cause Pennsylvania, and previously served as Executive Director of Common Cause Maryland. I have also worked for the American Cancer Society on the issue of banning smoking in casinos, and limiting the exposure of casino employees to secondhand smoke.

Common Cause is a nonpartisan government watchdog group whose mission is to make government more open, ethical, and accountable. A signature issue for Common Cause throughout its history has been campaign finance reform. At the outset, the organization pushed for fundamental changes in the way political campaigns are financed. Early efforts gained the first significant disclosure requirements and limits on contributions. Later, spurred by the Watergate scandal, Common Cause led the effort to pass a presidential public financing system in 1974. More recently, Common Cause led the multi-year campaign to ban soft money, culminating in the enactment and successful Supreme Court defense of the Bipartisan Campaign Reform Act (the McCain-Feingold law).

Nowhere has the influence of campaign contributions and lobbying expenditures over elections and public policy been more dramatic in the last few years than with the issue of legalized gambling. It's often said about gambling that the rules favor the house and the house always wins. In politics, the "rules" of running for office, whereby major donors to political campaigns can gain undue influence over candidates and elected officials, have contributed to the rapid expansion of legalized gambling, and to growing problems with gambling-related corruption.

Some people will argue that a big check is a big check and has the same potential to corrupt a public official, whatever the source. The reports I've written on the gaming industry in Maryland and Pennsylvania demonstrate that contributions from the gaming industry are especially problematic, and contribute to a culture of corruption. Legalized gambling as an industry is highly dependent upon government for approved locations, operating licenses, numbers of allowed machines, permitted forms of gambling, hours of operation, smoking bans, tax rates, etc,

and is therefore highly motivated to gain as much influence as possible over legislators and regulators, increasing risks of corruption.

Here are three of the most troubling aspects of gaming money in politics that I've found in my research.

### I. Ties Between The Gaming Industry & Organized Crime

- In 2003, The Philadelphia *Inquirer* reported that Philadelphia mob boss Joseph Ligambi and Peter "Petey Boxcars" Cosoleto of New York were permanently banned from all Atlantic City casinos by the New Jersey Casino Control Commission after promoting the use of casinos for mob meetings. The commission voted unanimously to add these mobsters to the state exclusion list already numbering 150.
- Of the owners of Pennsylvania's 13 licensed casino, one of the most generous donors to political campaigns has been Louis DeNaples, who made over \$400,000 in campaign contributions from 2001-08. DeNaples's casino license was suspended in January 2008 after he was indicted for perjury for allegedly lying about his relationship with members of organized crime. In April 2009, the Dauphin County Attorney's Office dropped these perjury charges in exchange for Mr. DeNaples turning control of his Mt. Airy Casino over to his daughter, Lisa DeNaples, and his license was reinstated in June 2009.
- In April 1997, the Associated Press reported: "A reputed crime syndicate tried to infiltrate and control an Indian casino near San Diego, the second time in 10 years that the casino was allegedly targeted, according to federal indictments." Seventeen people were charged, including numerous members of organized crime families from Pittsburgh and Ohio. In the previous incident, nine reputed Chicago organized crime figures were convicted of racketeering, extortion and other charges.
- In Louisiana, 25 individuals were convicted for taking part in a scheme designed to skim video poker profits for the Marcello, Genovese and Gambino crime families in Louisiana and New York. Among those convicted was a former New Jersey deputy attorney general, who also had served as an executive with the Trump Taj Mahal Casino in Atlantic City, N.J.
- In February 1998, the Charleston (S.C.) Post and Courier reported: "South Carolina lawmakers left the door wide open for organized crime when they wrote the law on video gambling. And it looks as if organized crime walked right on in. Federal court documents and South Carolina corporate records show a link between South Carolina's video gambling industry and a Pittsburgh organized crime ring."

#### II. A pattern of unscrupulous and illegal behavior by the industry.

As the Director of Common Cause/Maryland, I reported over 60 cases of donors making illegal campaign contributions—contributions in excess of the legal limit for an election cycle—to the State Prosecutor. Approximately one-third of these donors were in the gaming industry, or were individuals seeking a license to operate a gaming facility. Many of these donors seeking gaming licenses had also set up "dummy companies" whose sole purpose was making campaign contributions—a legal practice that nevertheless violated the spirit of the state's campaign finance laws.

# III. The Gaming's Industry's Ability to Buy The Support of Unlikely Allies, Bully Opponents, and Shape Public Opinion

A turning point in the debate over legalizing slots machines in Maryland came in 2008 when the Maryland State Teacher's Association voted to endorse slots and the construction of several slots parlors around the state. Two things convinced the teachers to support gambling. First, the gaming industry and its allies in the legislature promised to dedicate a portion of slots revenue to new school construction. Second, even though Maryland Senate President Mike Miller had repeatedly called education funding his top priority, he threatened the union with severe funding cuts if they did not support slots. Across the country, the gaming industry has used the prospect of sharing in gaming revenues to enlist the support of many groups who might otherwise be neutral or even opposed to legalized gambling.

In addition to campaign contributions, the gaming industry has also outspent opponents by an average of 48-1 on recent state referenda, according to a report by the National Institute on Money In State Politics (see Figure A). Given how little money opponents have to educate the public about some of the disastrous consequences of expanding legalized gambling—from social ills to political corruption—the industry will continue to have an often insurmountable advantage when it comes to shaping public opinion.

#### Three Case Studies: Pennsylvania, Maryland, Maine

#### Pennsylvania

Pennsylvania is one of the few states that does not limit campaign contributions, and in 2007 it became one of the last states to force lobbyists to disclose their expenditures and the issues on which they have been lobbying. The state's online campaign contribution database is not fully searchable or sortable, so that a search for contributions from a particular interest that might take hours in another state could take hundreds of hours in Pennsylvania.

These three weaknesses—no contribution limits, no statutorily mandated lobbyist disclosure from 2002 to 2007, and poor disclosure of campaign contributions—meant that the gaming industry was able to conduct a massive, sustained campaign to expand legalized gambling with relatively little scrutiny. From 2001-08, the industry gave \$4.4 million to political candidates and elected officials—a staggering sum that was not fully uncovered until well after slots had passed.

The study also found that 3 of the top 21 recipients of casino money in Pennsylvania had been Supreme Court Justices—two of whom served on the Court when it upheld the slots bill. Overall, casinos gave \$138,000 to judicial candidates, and the gaming industry has enlisted judges to help in other ways. For example, former Supreme Court Justice was hired as a Director of the Pennsylvania Casino Association in 2007, and has been pushing to further expand gambling to include table games.

#### The Gaming Industry's Winning Streak in Pennsylvania

The circumstances under which Pennsylvania's gaming law passed were extraordinary. In July 2004, a 33-line bill about background checks for racetrack employees was on its third consideration when these 33 lines were deleted and replaced by a 144-page slots bill that passed without a public hearing—a violation of constitutional requirements. In an unusual move, the law also required that only the State Supreme Court had exclusive jurisdiction to hear any challenge to its constitutionality. A pending federal lawsuit filed by the state League of Women Voters in May 2008 alleges that former State Supreme Court Justice Cappy spoke to legislative leaders in secret about the need for a judicial pay raise to persuade certain other justices to uphold the constitutionality of the 2004 gaming law, which was before the Court at that time.

As part of the law that legalized slots, Pennsylvania tried to curb the potential for gambling-related corruption by banning campaign contributions from donors with a financial stake in one of the state's casinos. Not only did this law fail to limit the millions in contributions from other gaming interests—namely out of state casinos, lobbyists and lawyers for in-state casinos, and contributions from developers and others with a financial interest in expanding gambling—but this ban was declared unconstitutional by the State Supreme Court in April 2009. With casino owners free to make unlimited contributions, and with Pennsylvania not requiring disclosure of this year's campaign contributions until 2010, the state legislature voted in October to add table games to the state's casinos, and is considering allowing casinos to extend instant credit so that gamblers who have lost all their cash can go further into debt.

#### Maryland

#### The Ghosts of Corruption Past, Present, and Future

Slots were first legalized in Maryland in 1940's and southeastern Maryland soon became known as "Little Las Vegas." Many of the tactics used by the industry today, such as promising a share of proceeds to groups and institutions whose missions had nothing to do with gambling, sped the spread of slots. Slots legislation in Charles County passed in 1949 with the promise of a "reduction of the Charles County real estate [tax,]... reduction of outstanding school bonds and interest" and for construction of a fire company, library and creation of a hospital fund.

Maryland has been plagued by gambling-related corruption ever since. In 1951, a Prince George's County state senator reported being offered a \$30,000 bribe to support gambling. In

1963, a state delegate claimed he was offered \$300 to be out of the room when a vote on an antislots bill came up for a vote. In 1966, Spiro Agnew reported being offered a \$200,000 bribe to support gambling while running for governor. Agnew's successor, Gov. Marvin Mandel, was found guilty on 17 counts of mail fraud and two counts of racketeering for allegedly accepting gifts and bribes from racetrack investors in return for his influence. His conviction was overturned in 1988 on procedural grounds, though none of the facts of the case against him was ever refuted.

The drive to bring slots back began almost as soon as they were banned in 1968, but gained considerable momentum with the election of Robert Ehrlich as Governor in 2002. In 2003, Common Cause/Maryland released a study of \$500,000 in campaign contributions by the gaming industry, and this study helped inspire an FBI investigation of State Senate President Mike Miller for his possible role in directing more than \$200,000 in campaign contributions from a racetrack owner to a Federal PAC which, in turn, redirected some of that money back into Maryland. The FBI ended this investigation in 2005 because it was unable to determine if Miller directed this donor to violate contribution limits by "laundering" his contribution through this out-of-state PAC.

#### Maine

The recent debate over taxing slots proceeds in Maine shows how hard it can be for gaming's opponents, or even their allies, to push back against their demands. A proposal to increase the state's tax on gross slots revenue from 1% to 2% led the gaming company Penn National to threaten to stop construction of a casino in Bangor. Legislators from both parties promptly dropped the proposed tax increase. (Please see attached article from the Fosters *Daily Democrat.*)

The gaming industry outspent opponents by 3-1 on the 2003 referendum that expanded gambling in Maine. Most of this was spent by the Las Vegas, NV, company Marnell Corrao, a company with a history of making large campaign contributions and subsequently receiving favorable treatment in Congress. In 1998, Marnell Corrao gave \$100,000 to a national senatorial committee, one of whose members, a senator from Nevada, introduced pro-casino legislation three days later.

#### **Conclusions**

The difficulty in proving that donors have intentionally violated campaign finance laws, or, sometimes, the difficulty in proving that a donor has received a quid pro quo for a contribution that has been funneled through multiple committees, is another reason why the gaming industry is able to wield so much influence through its contributions.

As New Hampshire considers expanding legalized gambling, I would urge you to consider these questions.

- The gaming industry is dominated by large, multi-billion dollars corporations who have the ability to vastly outspent political opponents in New Hampshire, either by working to defeat candidates who oppose them, using ad blitzes to shape public opinion.
- Almost every state that has legalized slots machines in the last few years—including West Virginia, Delaware, Pennsylvania, and Maryland—has either gone on to legalize table games, or is seriously considering doing so. Those who feel comfortable with slots but not full-blown, Las Vegas-style casinos should consider the experience of other states and understand that legalizing slots is often the first step on a slippery slope.
- How will the future debate of gaming in New Hampshire be shaped by campaign contributions from gaming interests, and how might these contributions corrupt the political process?

Thank you again for this opportunity, and I would be happy to answer any questions.

#### Figure A: The Role of Gaming Money in State Referenda

Casinos and other with an interest in expanding gambling have also sown the seeds of their success by outspending their opponents by an average of 48-1 on recent gambling referenda, according to the National Institute for Money In State Politics.

#### 2008 GAMBLING BALLOT MEASURES

		For	Against	Against (Less Gambling Industry Spending To Block Competition)	Ratio	Expansion Passed?	Margin
Alaska	Measure 1	109,234	0	0	NM	No	39
Arkansas	Amendment 3	836,430	221,252	221,252	4/1	Yes	63
California	Propositions 94-97	106,722,102	64,280,405	642,804	166/1	Yes	55
Colorado	Amendment 50	7,709,963	4,446	4,446	1734/1	Yes	59
Maine	Question 2	2,672,575	840,066	840,066	3/1	No	46
Maryland	Question 2	7,128,017	1,024,070	1,024,070	7/1	Yes	59
Missouri	Proposition A	15,473,187	30,226	30,226	512/1	Yes	56
Ohio	Issue 6	25,693,377	38,711,993	735,811	35/1	No	38
TOTAL		166,344,885	105,112,458	3,498,675	48/1		

Massachusetts not included, as vote was to ban dog racing, not to expand gambling Nearly all money spent to support gambling expansion measures came from gambling interests and from those benefitting financially from expansion

Figure B: Federal Campaign Contributions by The Gaming Industry, 1990-2009

Federal Campaign Contributions by The Gaming Industry, 1990-2009

Cycle	Rank	Total	From Individuals	From PACs	Soft Money
2010	29	\$3,674,590	\$3,272,290	\$402,300	N/A
2008	34	\$17,124,334	\$15,238,100	\$1,886,234	N/A
2006	32	\$11,659,986	\$9,837,104	\$1,822,882	N/A
2004	35	\$11,222,212	\$9,832,490	\$1,389,722	N/A
2002	26	\$15,023,998	\$5,493,374	\$970,548	\$8,560,076
2000	36	\$12,880,617	\$4,049,221	\$962,983	\$7,868,413
1998	38	\$6,390,268	\$1,465,539	\$1,058,129	\$3,866,600
1996	40	\$7,122,491	\$1,939,120	\$1,071,651	\$4,111,720
1994	49	\$3,141,228	\$1,243,176	\$394,083	\$1,503,969
1992	69	\$1,497,180	\$829,578	\$196,084	\$471,518
1990	75	\$478,719	\$253,450	\$225,269	N/A
Total	39	\$90,215,623	\$53,453,442	\$10,379,885	\$26,382,296

source: www.opensecrets.org

## Fosters Daily Democrat (Dover, NH)

Maine's embarrassment offers a lesson for N.H.

Sunday, May 20, 2007

Granite Staters who might be seduced by the lure of casino-generated tax revenues would do well to learn by the mistake of Maine lawmakers who have been brought to their knees begging by the owners of the state's only slot machine parlor.

Several years ago, Maine succumbed to the clamor of casino interests by giving Scarborough and Bangor the local option to adopt slots in combination with their race tracks — facilities referred to as racinos. Wisely, Scarborough voters declined, unlike Bangor. With local approval in Bangor, racino owner Penn National was quick to build a temporary facility with a limited number of slots while plans for a larger, permanent operation were developed.

But when the Maine Legislature decided to consider upping its take from Penn National gaming receipts, the firm stopped construction in protest. Then last week, lawmakers capitulated — a move that found House Speaker Glenn Cummings begging for forgiveness and construction to resume.

"In a show of good faith ... we are taking our proposal off the table," Cummings told the Associated Press. "We are asking that Penn National reciprocate by putting these men and women back to work."

Why did Cummings beg? Money. Penn National pays the state a 1 percent tax on its gross slot machine income, as well as a 39 percent state tax on its net income and a 3 percent tax to the city, according to AP. It could be easily argued that lawmakers were foolish to seek an increase in these numbers given the expansion under way in Bangor. Tripling the number of machines available to strip gamblers of their wages would mean a quantum leap in those revenues — even without the state's demand for greater percentages.

But apparently, Maine lawmakers like to gamble. And like most gamblers, they lost. Not only did they lose the showdown with Penn National, they lost control. Penn National is now in the driver's seat. Company officials know they can bring the Legislature to its knees at will. And once the new facility is up and running, it will have even more financial leverage should the Maine Legislature even comb its hair in the wrong direction. Should lawmakers make a move that displeases Penn National, all the company has to do is close down a few hundred machines or put up a "closed for renovation" sign.

In other words, from here on out, what Penn National wants Penn National gets.

Critics warned that a racino would mean bringing more addiction to the state. They did not, however, envision that the Maine Legislature would be counted among those addicts — addicts hooked on gaming receipts as badly as a junkie hooked on crack. So hooked are lawmakers that Penn National now has the leverage to foist gambling on more communities should it so choose

to exercise its muscle.

When the push to add slots at New Hampshire's tracks again rears its ugly head, lawmakers in Concord should be reminded of the addiction that has swept the legislative chambers in Augusta and a lesson learned too late. Those who make a living promoting casino gambling are predatory in more ways than one.