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Pari-Mutuel Wagering; Constitutional Amendment Prohibiting Lotteries, Bookmaking, Pari-mutuel Betting on Animal Racing

City Club of Portland (Portland, Or.)

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Report
on
PARI-MUTUEL WAGERING

To the Board of Governors
The City Club of Portland:

DETAILS OF PROCEDURE

Your Committee was authorized on September 24, 1951 to investigate and consider generally whether or not pari-mutuel wagering, as now conducted in Oregon, is in the public interest.

At a later date the Committee was also asked to analyze and report on the proposed constitutional amendment with respect to pari-mutuel wagering as sponsored by the Oregon Council of Churches. The two subjects are so closely allied that they will both be covered by the same report, although separate recommendations are given with respect to each question.

The Committee includes members from Industry, Banking, Law, Engineering, Government, Education, Accounting and Church. The latter member, Rev. Thomas McCamant, because of his membership on the Oregon Council of Churches' Committee which was sponsoring the anti-pari-mutuel amendment, withdrew after several months. Considerable valuable work was also done by Mr. Waldo Taylor before he was disqualified by his election to the Board of Governors of the City Club.

The Committee interviewed the following: City Attorney Alexander G. Brown; Mr. Murray Kemp, President and Manager of the Multnomah Kennel Club; State Senator Richard L. Neuberger; Mr. Charles F. Hunter of Portland Meadows; Mr. Frank Clark of the Portland Turf Association; Mr. Terry Schrunk, Sheriff of Multnomah County; an anonymous individual of wide experience in gambling and racing; ex-State Senator Frank Hilton; Mr. Robert Maguire, attorney; Dr. Ernest Jaqua of the Oregon Council of Churches; Mr. Philip L. Dreyer, former state representative; Mr. Dan E. Clark, II, market researcher; Mr. Warrington Stokes, County Welfare Administrator; Mr. James Richardson, Manager of Multnomah Stadium and former manager of Multnomah Athletic Club; Mr. Wallace Turner, reporter, and Mr. Randolph Kuhn, advertising agent for the Multnomah Kennel Club. Several witnesses did not want their views published with their names, so the specific sources of many opinions are not given. The members attended horses and dog races as part of their research.

Inquiries were sent to the Attorney-General of each state, requesting information regarding the law governing pari-mutuel wagering in his state. Replies were received from 22 states which permit pari-mutuel wagering and 16 which do not. Requests for information pertaining to county fairs were sent to all Oregon counties.

THE MORAL QUESTION—OTHER CONSIDERATIONS

The Committee has not been asked and does not pretend to determine whether pari-mutuel wagering per se is moral or immoral, or in what degree. The Committee feels that its assignment was to study the manner in which pari-mutuel wagering is conducted in Oregon and to ascertain its impact upon the public welfare. Accordingly, an attempt has been made to study the question from the following standpoints:

Economic: Does the existence of pari-mutuel wagering have any noticeable effect on the economy of the community or of identifiable portions thereof?

Personal Liberty. Does the public interest justify depriving those who so desire, of their freedom to indulge in this specific pastime?

Underworld Activity. Has pari-mutuel wagering during the last twenty years caused, or will its continuance cause, gangster or criminal activity?

Corruption of Public Officials. Have public officials been corrupted or unduly influenced by the existence of pari-mutuel wagering or by the manner in which the State's portion of the revenues is distributed?

Distribution and use of State revenues from racing. To what uses are the state revenues from racing put and how dependent are the beneficiaries upon such revenues?

HOW PARI-MUTUEL OPERATES

Pari-mutuel is the term applied to a system of cooperative betting in which the returns on the winning stakes are determined by a common pool of the total amount wagered on all contestants in each race. Prior to 1872 all wagers were made either directly between interested persons or with bookmakers. The pari-mutuel system was invented in France by M. Oller about 1870. The derivation of the word is from French *pari* meaning "wager" and *mutuel* meaning with "reciprocal interests" or "in common". Therefore, the broad interpretation is "to wager in common" or "to wager among themselves." The effect is to make a true market, to ensure a return exactly in *accordance with the mass opinion*, as opposed to the bookmaking method under which the return depends upon the judgment of the bookmaker, or the necessity under which he labors to round out his particular book. Each bookmaking transaction is a separate contract in which the "player" and "layer" agree as to odds and conditions at the time the bet is made. The difference is important and should be understood. (See Appendix A)

Bookmaking. Pari-mutuel wagering should not be confused with bookmaking. In the former, the wagerers bet against each other, and the odds are determined by popular opinion. In bookmaking the "bookie" sets the odds and pays off according to those odds holding a commission for himself. The practice is illegal in most states including Oregon, is uncontrollable and difficult to tax although a recent Federal law heavily taxes bookmakers.

The practice of bookmaking is not very active in Oregon. Book is seldom made on Oregon horses because the Portland races are not considered first class and it is just as easy through wire services (now illegal) to bet on major tracks throughout the nation.

Because bookmaking is not necessarily tied to local races, it does not appear at present that the existence of races in Oregon has much effect on the practice. However, the opinion was expressed by at least one witness that the prohibition of legalized gambling would drive wagerers to this illegal form.

RACE FIXING

The Oregon Racing Commission advises that they have found no cases of fixing dog races and no fixing at the Meadows track (for horses). However, during the 1952 season, two cases of fixing horse races were reported at the Multnomah County Fair; during the 1951 season, one case of fixing was found at the State Fair, and one other case of horse fixing was reported at another fair.

The cases at the Multnomah County Fair were determined through routine chemical analysis. The fix at the State Fair during 1951 was by use of a "battery".

It is extremely difficult to fix dog races because the dog must weigh in before the race to within one pound of his standard weight. Also it is apparently not profitable to attempt to fix dog races because dogs do not race with enough uniformity to justify heavy betting on any individual contestant.

The fact that no jockeys are involved also complicates the problem of fixing dog races.

PARI-MUTUEL WAGERING IN OTHER STATES

Pari-mutuel wagering is authorized by law state-wide in twenty-five states, for three counties in one state, and is not permitted in twenty-two states.

In fifteen of the twenty-six states which have authorized pari-mutuel wagering, all or a part of the revenue received by the state goes into the general fund, but in the majority of the states permitting pari-mutuel wagering, all or a part of the revenue goes to the fair funds, education, old age assistance and for the promotion of similar activities.

In all of the states the racing is under the jurisdiction of a racing commission or a racing commissioner.

Eighteen states allow horse racing only, one dog racing only (limited to three counties of the state) and seven horse and dog racing.

The laws of the states that authorize pari-mutuel wagering differ from the laws of Oregon only in minor particulars. The pari-mutuel law in twenty-three states is administered by a state commission, in one state by local commissions, in one by one racing commissioner and in another by a state administrative department.

HOW RACING IS CONDUCTED IN OREGON

Section 4, Article XV of the Constitution of the State of Oregon provides:

"Lotteries and the sale of lottery tickets for any purpose whatsoever are prohibited, and the legislative assembly shall prevent the same by penal law.

However, the Oregon Supreme Court has declared that gambling on the results of racing is not a lottery. Consequently, in 1933 the Legislature enacted the state racing act. This act authorizes thoroughbred and standard-bred horse and animal racing and provides for its regulation, created the Oregon Racing Commission, authorizes pari-mutuel wagering and provides for the distribution of revenues therefrom, and prohibits pool selling and bookmaking.

The Act provides that the tax and license fee therein provided "shall be in lieu of all other licenses and privilege taxes or charges by the State of Oregon, or any county, city, town or other municipality for the privilege of conducting the race-meet provided for herein and licensed by authority hereof." The Portland City Attorney's office has construed this as prohibiting the City of Portland from imposing any occupational tax or license fee upon the dog races, including any fee of uniform application to other enterprises.

Dates for racing seasons are set by the Oregon Racing Commission upon application from the track operators. By law, the Oregon State Fair and the Multnomah County Fair have first call on certain dates and the other meets must fit around those dates. The state law limits racing in any one county (exclusive of racing at county fairs) to not exceeding 100 days in any calendar year. Dog racing is limited to 60 days.

Dog Racing: The only dog racing in Oregon is that done at the Multnomah Stadium in Portland, under the auspices of the Multnomah Kennel Club, an Oregon corporation. Races are held nightly except Sunday. The season runs from mid-June to mid-August. Admission is 10 cents, or 25 cents including program. Average daily attendance in the 1952 season was about 7,700. Concessions include lunch and beer. The Commission has nine representatives to supervise racing and betting, at a total cost of \$150 a day for which the Commission is reimbursed by the track operator.

In calendar year 1952, there were 59 days of dog racing during which about 455,933 patrons wagered \$14,881,210.00. The winners got back \$12,976,761.00.

Horse Racing: Portland Meadows operates under the auspices of Portland Turf Association, just north of the city of Portland. In 1952, one 39-day meet was held (May 1 to June 14) six days a week. Attendance in 1952 averaged 4200 per day. Courtesy tickets are commonly used for admission with a service charge of 25 cents for entry to grandstand and 50 cents for entry to club, the latter also granting access to the grandstand. There are two clubs: The Turf Club, private membership, and a public club, both of which operate restaurants and bars. The Commission has eleven representatives to supervise racing and betting, at a total cost of \$224 a day for which it is reimbursed by the track operator.

In 1952 the Oregon State Fair at Salem had seven days of thoroughbred and quarter horse racing from August 30 to September 6. This is an annual meet under the auspices of the Oregon State Fair Commission. The Racing Commission has seven representatives at this meet who are paid a total of \$155 a day.

The Multnomah County Fair at Gresham annually holds thoroughbred horse racing which this year was from August 18 to 23. The county commissioners have been operating the fair through a manager.

Other races scheduled for this year are shown in the table on page 100.

WHAT HAPPENS TO THE MONEY

(From Oregon State Racing Commission figures for calendar year 1952 for all animal racing.)

Currently about 73% of the amount wagered ("the handle") is on dogs and the rest on horses. The following figures are for the calendar year 1952 for animal racing:

Gross amount wagered	\$20,428,000
Less: Returned to winning wagerers	17,684,375
	\$ 2,743,625
Less: Pari-mutuel tax paid state	920,237
Retained by racing associations for cost of operation and profit.	\$ 1,823,388

Much stress has been placed on the gross handle, and this figure has been used as a gauge to show the magnitude of the operations. However, 87% of the money wagered merely changes hands at the track among the wagerers. The remaining 13% of the handle, or about \$2,740,000 was not returned to the wagerer during the 1952 calendar year. This represents the stakeholders' fee, referred to in Oregon as the takeout percent. Of this amount the state took 34% or \$920,237 in taxes, representing 4.5% of the gross amount wagered.

To indicate the disposition of the stakeholder's fee, the following schedule is submitted. It was prepared from Multnomah Kennel Club figures for the calendar year 1951, which included revenue from admissions, concessions, breakage and sundry, in addition to the stakeholders' fee:

	Per Cent of Fee	(Kennel Club Only)	
Oregon State Pari-Mutuel Tax	30.2	} Returned to economy of Oregon 82.4%	\$1,420,591.84
Other Taxes	10.7		
Salaries	17.7		
Operating Expense	16.5		
Rent	5.8		
Charity	1.5		
Purses	11.2	} 17.6%	304,997.50*
Dividends	5.8		
Retained Earnings6		
Total	100.0	Some goes out of Oregon	Gross Revenue \$1,725,589.34**

DISTRIBUTION OF STATE'S PORTION

In addition to the \$920,237 given above, other racing commission revenue brings this total take up to about \$954,172 distributed as follows:

State of Oregon General Fund (2/5 of State take)	\$368,094
Racing Commission "Revolving Fund" (Operating Expense)	20,478
Oregon State Fair (Salem)	35,000
Pacific International Livestock Exposition, Inc. (Portland)	35,000
Eastern Oregon Livestock Show (Union)	7,500
Mid-Columbia Livestock Show (The Dalles)	5,000
Pendleton Round-Up	7,500
Northwestern Turkey Show (Douglas County)	2,400
Klamath Basin Round-Up Association (Klamath County)	5,000
Spring Lamb and Dairy Show (Canby)	2,500
Pacific Coast Turkey Exhibit (Yamhill County)	2,400
Oregon State Corn Show (Oregon State College)	2,500
Oregon County Fair Fund (each county's pro rata share \$12,800.00)	460,800
	\$954,172

*Most purses go to Oregon residents because about 70% of the dogs and 75% of the horses are Oregon owned. A few dividends go to Oregon residents.

**Oregon State Pari-Mutuel Tax	\$ 521,079.10
Kennel Club's Portion of Stakeholder's Fee	972,033.78
Total Stakeholder's Fee	\$1,493,112.88
Income from Admissions, Concessions, etc.	232,476.46
Gross Kennel Club Revenue	\$1,725,589.34

DISTRIBUTION OF MONEY RETURNED TO WAGERING PUBLIC

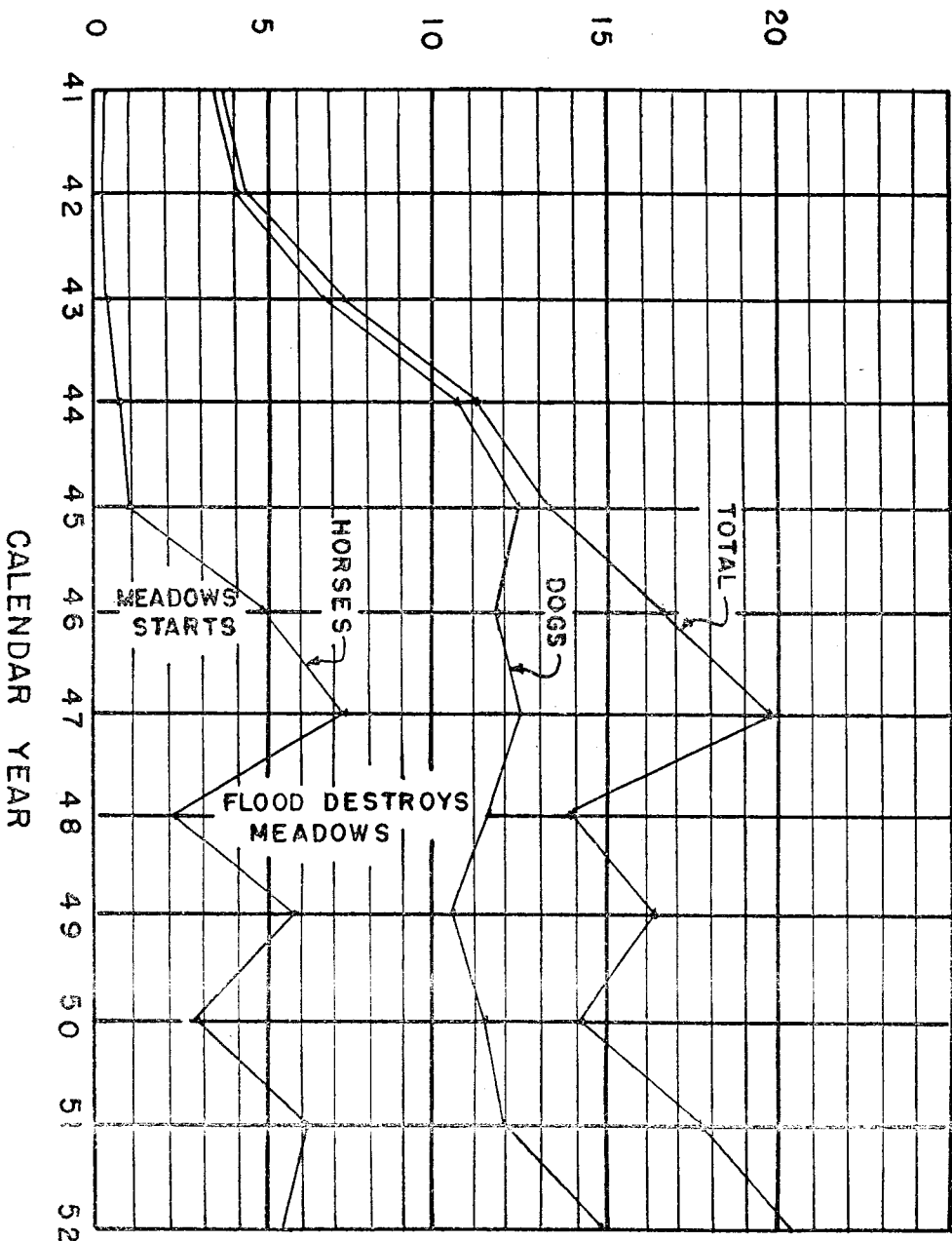
There is, of course, no way to determine the ultimate recipient of this money, but we may assume that some of it finds its way to the professional gambler rather than the casual or amateur wagerer. Much of this may go out of the state or be used unproductively within its borders, but we have no evidence that the amount is significant. The total amount involved was about \$17,680,000 in the 1952 season.

Obviously, the local populace must retain a goodly portion of the money or they would not enjoy the pastime sufficiently to continue patronizing the track.

THE TREND IN MAGNITUDE OF RACING

The graph below shows as the best index of trend, the gross amounts wagered through the years as reported by the State Racing Commission.

GROSS WAGER IN MILLIONS OF DOLLARS



TAX AND OTHER FINANCIAL CONTRIBUTIONS

A large portion of racing tax revenue is distributed to county fairs and other similar beneficiaries as shown on page 96. The basic reason for this distribution will be discussed under another topic, but the distribution itself is important in that it carries a positive good. A study of the table will be of interest from the political as well as the financial standpoint.

An inquiry was sent to each county to ascertain the dependency of its fair on the racing fund distribution and, although the response was only about 50%, it is believed to be representative. Results of this survey follow.

Racing fund distribution provided 65% of the funds of the county fairs taken collectively. Percentages varied from 100% reported by five counties of the nineteen counties reporting to 7% reported by Lane and Multnomah counties, respectively.

Some counties actually receive more funds from the state than their fairs can absorb. At least one of these (Jackson) gives the excess to 4H Clubs. Several counties do not hold fairs but still receive funds.

Approximately 60% of the county fairs may be considered dependent on racing funds.

Several beneficiaries of tax money conduct their own races (horses only) with pari-mutuel wagering and thus help defray their expenses and contribute taxes to the general fund. The gross wager of all combined represents only about 5% of the total wagers in the state so they will not be discussed further.

EFFECT ON RETAIL TRADE AND CREDIT

Much publicity has been given recently in magazine and newspaper articles to the alleged deleterious effects of racing on trade and credit collections. However, a check with the author of several of the articles failed to reveal any tangible evidence to support said allegations. The committee in interviews with various witnesses, including persons associated with collection agencies and major retail stores, was unable to find anyone willing to state publicly that racing adversely affected business or credit. Several of these persons expressed the belief that it did, whereas others doubted that racing had any such effect. There appears to be no traceable effect upon competitive forms of recreation or entertainment, specifically baseball and theaters. The general consensus was that there were so many variables which could affect the results, the impact of racing, if any, could not be isolated.

A survey made by Dan E. Clark II and Associates for the opponents of the anti-pari-mutuel amendment concludes "claims of adverse effects of racing in Portland or elsewhere cannot be substantiated insofar as general credit collections are concerned." Clark's reputation for competence in such surveys is attested by the fact that his concern was retained at different times by both parties to this controversy.

The Clark survey compared collections in 21 racing and 20 non-racing cities to determine whether retail store collections during the racing months were higher or lower than the annual average for that city. The period studied was November 1949 to April 1952. Using figures published in Credit World Magazine, the Clark survey states in substance:

In 21 racing cities, collections were above average 36 times during the racing season and below average 37 times during the racing season.

In 20 non-racing cities, collections were above average 32 times and below average 38 times during the same period.

Similar findings were developed from Federal Reserve System department store statistics for seven cities, three of which have racing.

Clark concludes that the above simply indicates that claims of adverse effects of racing on credit collections cannot be substantiated. He attributes no significance to the fact that the figures point slightly to better collections in racing cities. The difference here is less than the margin of error.

THE BREEDING INDUSTRY

It is reported that 90% of the racing dogs and 33% of the horses that race in Oregon are Oregon bred. Although the industry is not a major one in Oregon as it is in some other states (horse breeding is the sixth largest industry in California and second in Kentucky), it is an industry of moderate size which apparently is dependent on local legalized racing, even though many Oregon bred animals race outside the state.

One source of income for breeders is the practice whereby the track returns 10% of all Oregon purses to the Oregon breeder of a horse, regardless of its owner at the time of the race. Thus it appears that an Oregon track is desirable to encourage breeding. If the track is transferred to Vancouver, as has been rumored, Oregon breeders would lose this 10% fee. All thirty-six counties are involved in breeding and Oregon is reputed to be one of the best locations for this industry.

PARI-MUTUEL'S INFLUENCE ON THE LEGISLATURE

The racing act provides that each county receive a portion of racing tax revenue for support of its fair, with the result that the representatives were willing to pass the original act, and have since been loath to enact restraining or prohibiting legislation. In addition to county fairs, various other fairs and agricultural shows receive distributions and are thus inclined to defend racing. (See list, page 96.) Witnesses have indicated that these groups as well as county fairs probably exert influence on the legislators.

Although we have no evidence of undue or dishonest lobbying by the various recipients of racing funds, it stands to reason that certain pressure is exerted, and that the law was designed to cultivate these pressures.

Of lesser importance is the custom by which many race track employees are recommended by legislators. Some legislators avail themselves of this privilege, whereas others refrain.

ORGANIZATION AND OWNERSHIP OF MAJOR TRACK OPERATORS

The Multnomah Kennel Club, which operates the greyhound races, was incorporated in 1933 for 1250 shares of stock at \$80 with no par value. The majority of stock was and is held by non-residents of Oregon, but operations appear to be closely controlled by Mr. Murray Kemp of Portland, who has apparently been successful in his efforts to keep down the abuses usually associated with race tracks. Earnings on the original stock have been substantial (accumulated dividends through 1951 were \$1195 per share, which is not out of line with earnings of many industrial stocks). The majority of the original stockholders are now deceased, and their holdings have passed on to their heirs who apparently do not take a very active part in the management of the club. The most recent stockholder to die, and the only one who was reported to have had direct connection with the underworld, was Tom Keene whose dramatic death was reported in the papers last spring.

One of the greatest beneficiaries of the Greyhound races is the Multnomah Civic Stadium Association, owned by the Multnomah Athletic Club. It receives \$100,000 a year rent. It is authoritatively stated that this rental saved the Stadium for the city, as the Stadium was bankrupt at the time the Multnomah Civic Stadium Association initiated the move toward racing in 1933.

Portland Meadows (horse racing track) was incorporated in 1946 for \$1,980,000. This corporation got into financial difficulties and lost the property, partly because of the Vanport flood, which cost the Meadows \$60,000 plus loss of operation for two-thirds of the 1948 racing season. Later the Portland Turf Association was organized and acquired the track for \$530,000.00 through foreclosure proceedings.

The horse racing operation is relatively small and admittedly does not attract the first string horses. Consequently, it does not appear to attract professional "big time" gamblers. Due to its small size, horse racing appears less objectionable to the anti-pari-mutuel factions than dog racing.

The amount wagered at Portland Meadows during the 1952 season was about \$4,497,000 as compared with \$14,881,210 wagered at the dog races.

OTHER RACING EVENTS

All other racing events in Oregon are quite small compared to the races at the Meadows and the dog races, as shown by the following table which gives the gross amount wagered during the 1952 calendar year.

GROSS AMOUNT WAGERED -- 1952 Calendar Year

(Figures rounded to nearest thousand dollars)

(All except Multnomah Kennel Club are horse racing.)

Multnomah Kennel Club (dogs).....	59 days	\$14,881,000
Portland Meadows	39 days	4,497,000
Oregon State Fair Board (Salem).....	7 days	647,000
Multnomah County Fair Assn. (Gresham).....	6 days	345,000
Malheur County Fair Assn. (Ontario).....	3 days	9,000
Sage and Saddle Club (Ontario).....	3 days	12,000
Northwest Quarterhorse Assn. (Pendleton)	3 days	11,000
Tillamook County Fair Assn. (Tillamook)	3 days	8,000
Eastern Oregon Livestock Show Assn. (Union)	3 days	7,000
Harney County Fair Assn. (Burns)	2 days	6,000
Umatilla County Fair Assn. (Hermiston)	2 days	5,000

Total \$20,428,000

Twenty-three other horse racing events have been held periodically since the racing act of 1933, but are not operating currently.

MISCELLANEOUS REACTIONS OF WITNESSES

POLICE REPORTS

There is no evidence that there is any more crime during racing season than at other times or that pickpocketing or other crime is prevalent at the dog races.

SHERIFF'S OFFICE REPORT

The principal objection to the existence of legalized gambling at pari-mutuel tracks is that it makes enforcement of legislation prohibiting other forms of gambling, such as on pinball machines and punchboards, difficult and apparently unfair. Aside from this consideration, there seems to be no serious law enforcement problem created by pari-mutuel wagering.

The Multnomah County Sheriff's office and the Portland Police Department furnish the track operators with between 45 and 50 off-duty policemen for police duty during dog racing meets and a smaller number at the horse races. These men are all paid by the track operators and are selected by the operators from names recommended by the Sheriff and Chief of Police respectively. Selection is reportedly made upon a basis of need for extra money and there is no evidence of any undue favoritism being shown. As observed by members of your Committee at both the dog and horse races, policing appears to be adequate and well-conducted.

COUNTY WELFARE OFFICE REPORT

The trends of public assistance in the last four years seems to be related to factors operating in the total economy and it would be difficult to say that gambling is a significant factor in the cost of public assistance. It is probably true that in some instances, an individual may dissipate his income through gambling, but the number is apparently too small to be significant. Quite possibly some recipients of public assistance attend the races because admission is nominal, but there is no evidence whether or not they bet. Public assistance grants are very limited in amount and do not exceed a subsistence standard. If a recipient loses money gambling, he can not recover his losses from the county, but if the county should find out that he had won money at gambling, a corresponding amount would be deducted from his allotment. Officials at a meeting of county welfare administrators were asked if any had experiences which would show an effect of gambling on public assistance rolls, but none could report a measurable effect.

SUMMARY OF FINDINGS

Although the opinions of various members of the Committee vary in degree on some of the points, our findings can be interpreted and summarized as follows:

A. We have no evidence of fixing at Oregon dog races and only very limited fixing at horse races, the latter only at the minor tracks.

B. We have no evidence that retail collections lag as a result of the races, and we have considerable evidence that they do not.

C. We have no evidence that the county welfare load is increased as a result of racing.

D. The effect on the economy of the region is so small as to be negligible.

E. We have no evidence of political corruption as a result of racing, although we have considerable evidence of undue persuasion as a result of the tax distribution to counties and fairs.

F. Although cases of personal hardship in the families of gambling addicts may exist, we have found none.

G. We have no evidence of professional gangster infiltration and/or control.

H. From personal observation and police reports it appears that the behavior of patrons at the tracks is on a par with the behavior at the baseball park or at other sporting events.

I. Although the greyhound and race horse breeding industries in Oregon are small, they are healthy industries and contribute their share to the economy of the state.

J. The annual rental paid to the Multnomah Civic Stadium by the Kennel Club constitutes the major support of the stadium and thus to a large degree ends the rent-free use of the stadium to the Shrine Football Game and Rose Festival.

K. Distribution of two-fifths of the racing tax money to the Oregon General Fund, although not a major item in the State Budget, is substantial. However, mandatory distribution of the remaining three-fifths to County fairs and other shows is not considered by your Committee to be in the public interest because of its political effect.

L. There is apparently some pressure exerted on the State legislators stemming from the custom by which certain personnel are hired solely on the recommendation of these officials.

M. The fact that "large scale" gambling (pari-mutuel wagering) is permitted at the race tracks and "penny ante" gambling is forbidden on pinball machines and punchboards makes enforcement of the latter prohibition difficult for local authorities.

CONCLUSIONS

Many members of the Committee feel that they do not favor legalized gambling, and as good citizens and members of the City Club, they find it difficult to recommend continuation of the practice. However, the majority interprets the charge from the board to be a mandate to investigate the actual facts and draw completely objective conclusions therefrom.

In view of the above facts, it would not be fair to condemn pari-mutuel wagering regardless of our personal feelings in the matter.

The Committee was charged to "investigate and consider generally whether or not pari-mutuel wagering as now conducted in Oregon is in the public interest." We feel that the state should not interfere with private interests any more than necessary for the protection of the public interest or to prevent unreasonable interference with other private interests. Since the evidence presented indicates that pari-mutuel wagering as now practiced in Oregon does not sufficiently affect such interests, we do not feel it should be prohibited. However, we do not feel the practice is affirmatively "in the public interest" in the sense that resulting support of fairs, taxes, etc., is of itself a justification of the practice if such practice is undesirable from other standpoints.

Opponents of racing contend that the practice breeds all the evils discussed in Paragraphs A through H above, but we submit that if the practice is adequately controlled

and held down to a reasonable period of time each season, the evils do not necessarily follow and have not followed in Oregon. It would not be fair to condemn a reasonably well-behaved youngster for the crimes he might commit in the future. It would be prudent, however, to watch the youngster carefully, for which reason we make the following recommendations.

RECOMMENDATIONS

1. Permit the races to continue until, and only until, there is just cause to prohibit them. (Legislative action or initiative petition for constitutional amendment similar to the one presently sponsored by the Oregon Council of Churches will always be available).
2. The law should be changed to require all racing tax to go into the General Fund, thus relieving the legislators of pressure and putting them in a position to control gambling when and as they see fit, and distribute funds to the fairs by appropriation.
3. Caution the Legislature against any increase in length of season or other changes in the law which might permit racing to get out of control.

CONSTITUTIONAL AMENDMENT PROHIBITING LOTTERIES, BOOKMAKING, PARI-MUTUEL BETTING ON ANIMAL RACING

Some time after your Committee started research on the general question of pari-mutuel wagering in Oregon, it was asked also to consider this amendment as sponsored by the Oregon Council of Churches. The main report covers all points that should be considered except the one question of whether the proposed amendment is so worded as to accomplish its purpose.

LEGAL ADEQUACY OF PROPOSED AMENDMENT

It has been suggested by some that the proposed constitutional amendment against pari-mutuel wagering would not accomplish the result desired by its sponsors. This contention is based upon the fact that the present constitutional provision states that lotteries "are prohibited" whereas the proposed amendment reads that no lotteries shall "be authorized". The proposed amendment reads:

"No lotteries shall be authorized by the legislature or otherwise in the state, and no ticket in any lottery, pari-mutuel betting on the results of any horse, dog or other animal race or racing, or vehicle racing, shall be bought or sold within this state or offered for sale, nor shall bookmaking be authorized within the state, nor shall any gambling device be legalized, or the remedy, penalty, or punishment now provided therefor be in any way diminished."

In our opinion the proposed amendment, while not drafted as well as it might have been, will nevertheless accomplish its purpose of abolishing pari-mutuel wagering in this state. Moreover, we question whether there is any basis for a belief, professed by some, that it will weaken the laws against other forms of gambling including lotteries. Existing statutes against such gambling would remain undisturbed.

RECOMMENDATIONS

The majority of your committee recommends opposing the amendment by voting
327 X No. I vote against this amendment.

Respectfully submitted:

EARL CONDIT
GEORGE DYSART
GUNTHER KRAUSE
TIMOTHY MAGINNIS
WILLIAM MORLEY
ROBERT C. SHOEMAKER, *Chairman*

APPENDIX A**DETAILS OF PARI-MUTUEL**

Under the rules governing pari-mutuel wagering, the player purchases a participation in the pool and has no assurance as to his return should he win, beyond the knowledge that he will share proportionately with all players of the same opinion. He receives no unfair advantage, nor does he suffer any discrimination. Obviously, pari-mutuel is the fairest to the general public. The difficulties lie in finding a responsible stakeholder and in the mechanics of gathering, holding, and distributing the stakes. About 1880 owners of race tracks or state agencies began to fulfill the function of the stakeholder. The manner in which bets are collected and dividends calculated and distributed varies with the customs of the country.

In the United States as presently practiced, there are usually three pools. The "straight" pool for the winner only, the "place" pool for the first and second contenders, and the "show" pool for contenders which run third or better. The distribution of the "straight" pool is on a strict pro-rata basis less the stakeholder's fees. (13% in Oregon as detailed.) In the "place" and "show" pools, after deducting the stakeholder's fee, the amount bet on the first two contestants in the former and the first three contestants in the latter is also deducted, being the original stake, and the balance remaining is then divided into two or three equal parts respectively and distributed equally among the backers of the respective contestants plus their original stake. Thus all holders of winning tickets must win. If a deficit occurs because of the deduction of the stakeholder's fee, the stakeholder must make it good, plus a minimum of five cents on the dollar profit.

Odd pennies above the nearest five cents are called "breakage" and are retained by the stakeholder in Oregon. Breakage in Oregon amounted to \$55,029.84 in calendar year 1952.

Pari-mutuel betting is usually associated with the totalizator, a complex machine for registering and indicating the amounts bet, without which the system is both clumsy and in many countries illegal. Prior to the installation of a totalizator at Hialeah Park, Florida, there had been none used in the United States, although pari-mutuel betting had been introduced in 1908 and had flourished after 1914. The totalizator developed in the United States is a compact portable electrical machine making use of parts commonly employed in automatic telephony.

The totalizator must fulfill three functions: print and issue pari-mutuel tickets, summarize the sale of all such tickets, and display to public view the progress of wagering at all times.


**MINORITY REPORT OF THE COMMITTEE TO INVESTIGATE
PARI-MUTUEL WAGERING**

To the Board of Governors
The City Club of Portland

INTRODUCTION

This Committee was charged to determine whether or not pari-mutuel gambling at dog and horse races is in the public interest. A minority of the Committee is convinced that it is not.

It became apparent during preparation of the majority report by the Chairman that the difference of opinion among the Committee extended not only to the conclusions to be drawn from our investigation but also to the scope of the inquiry and the interpretation of data. The minority as well as the majority believes that a proper resolution of this question is highly important to our city and to our state. We, therefore, have prepared a full minority report in order to place our views before the members of the City Club.

I. Scope of the Inquiry

The minority views the directive of the Board of Governors as a mandate to consider all factors which the committee deems material irrespective of whether or not such con-

sideration involves a so-called "moral judgment". The minority feels itself at liberty to contemplate what might occur as well as what has occurred; what has happened in other states, as well as what has happened in Oregon. The minority believes that a determination of what is "in the public interest" demands the broadest consideration. We emphatically reject the conception that this investigation is a quasi-criminal prosecution which must be dismissed if this Committee fails to establish every element of a theoretical crime against society including a corpus delicti. Such a conception would load the scales in favor of the status quo and paralyze the proper office of responsible citizenship.

The Constitution of this state prohibits lotteries. The statutes of this state prohibit all forms of gambling games and devices. There is one exception. The State Racing Act makes pari-mutuel betting at licensed tracks legal. The fact that pari-mutuel betting is such an exception is highly significant to this inquiry. Organized gambling was an abatable nuisance at common law, and has been generally proscribed by statute for hundreds of years. This is because in the experience of many generations it invariably causes trouble. For elaboration of this point see reports of the Senate Committee on crime, and the report of the American Bar Association Commission on Organized Crime.

Whether or not gambling involves a moral problem to the individual who gambles is not the point. As the Bar Commission points out, social gambling, the friendly wager or card game, is essentially dissimilar from organized gambling which is conducted for profit and seeks to exploit the weaknesses of others. The question is: Whether maintenance of a major exception inevitably carries with it consequences, present or potential, to the public welfare and public morals which are undesirable. This question the minority has sought to answer in the conviction that the question itself states the standard which the City Club must apply.

2. How Racing Is Conducted in Oregon

In the early thirties the Oregon Supreme Court held that because there was some element of skill involved, pari-mutuel gambling did not violate the constitutional provision against lotteries. The Court held, however, that such gambling did violate other penal statutes of the state. This decision opened the way for legalization of pari-mutuel betting by legislative enactment. In 1933 Governor Julius Meier cut off the use of depleted state funds for the benefit of county fairs and other agricultural expositions. At the same time Multnomah Stadium, owned by the Multnomah Athletic Club, was in serious financial difficulties. Upon assurance that the Governor would approve the measure which might bail both stadium and fairs out of their difficulties, the State Racing Act was drafted, passed the legislature and was signed by Governor Meier on March 14, 1933.

The Act provided for a 5-man Racing Commission appointed by the Governor for staggered six-year terms to serve without compensation. The Commission is authorized to employ a secretary, clerical and supervisory help, and fix their salaries. The Commission licenses and regulates the tracks. The Act fixes the percentages of sums wagered which shall be paid to the state and specifies the distribution of such sums to certain designated beneficiaries and to the 36 counties.

The present members of the Commission consist of Dr. Frank R. Menne, a pathologist of Portland, Chairman; Mr. C. A. Huntington of Eugene, engaged in the fuel business; Mr. Robert Mautz of Portland, an attorney; Mr. J. H. Beck of Eugene, a retired fuel dealer; Mr. C. C. Curl of Pendleton, a rancher. Three members of the Commission own horses; one has raced them. In the year 1950-1951, the Commission held seven meetings. The balance of its business was carried out through subsidiary officials.

The Chairman, Dr. Menne, has associated himself with Henry Collins, President of the Portland Turf Association in an effort to require that a "price tag", or estimate of revenue which might be lost to the state, be placed on the ballot in connection with the proposed amendment eliminating pari-mutuel wagering. Mr. Cecil Edwards, Chief Steward of the Commission, has been actively engaged in opposing the amendment. Mr. Edwards' right to engage in such partisan activities was challenged recently. However, the Governor advised that he was a part-time employee and thus not properly subjected to restriction in this respect during non-racing months. Mr. Edwards was employed by the Racing Commission at \$75 per day while attending horse racing and \$40.00 per day while attending dog racing during 1952. Thus, for a total of 111 days on which he was

*Figures based on State Racing Commission Reports which are compiled on a fiscal year basis. Hereafter where split year seasons are noted, they refer to such commission statistics.

so employed he received \$6,260. If projected over an entire working year, his salary would be substantially greater than that of any other state official. We note also that Mr. Edwards has published in the Voters' pamphlet under his own signature, an argument against the proposed amendment.

Pari-mutuel wagering is primarily a metropolitan Portland operation. In 1952, for example, there were 59 days of dog racing at Multnomah Stadium, 39 days of horse racing at Portland Meadows, and 5 days of racing at the Multnomah County Fair, for a total of 103 racing days in the county. Contrast this to only 28 days of racing scattered about the balance of the state. Moreover, when the total amount wagered is considered, the out-of-county operations become insignificant. In the 1950-1951 season a total of \$13,642,585 was wagered. Of this total \$13,045,156 was wagered in Multnomah County*. More than 95% of the attendance was in Multnomah County. The State Racing Act might better have been entitled the Multnomah County Racing Act.

The only dog racing in the state is conducted at Multnomah Stadium under the auspices of the Multnomah Kennel Club. Mr. Murray Kemp, the Manager, has been with the Club since it was founded in 1933. There were 6 major owners of the Kennel Club at the time it was organized, each of whom held 153 shares. They were as follows: Owen P. Smith of St. Louis, perfecter of the mechanical lure; Peter P. O'Connor, former operator of a Butte, Montana, dog track; George Sawyer, former prize fight promoter and investor in Florida real estate; G. M. Toddhunter, stockholder in Santa Anita and Hollywood horse tracks; T. A. Keene, who was murdered last spring in California; J. Howard Quinn, who has had widespread gambling ventures.

The men listed above accounted for 938 of the 1250 no par shares for which the shareholders paid \$80 apiece. Smaller blocks of stock were owned by John Foppiano, a San Francisco promoter, 93 shares; Arthur H. Samish, California liquor lobbyist, 80 shares of which half may be owned by Tom Kyne, San Francisco Betting Commissioner and brother of William Kyne, boss of Portland Meadows and Bay Meadows at San Francisco; Murray Kemp, 34 shares. Since 1933 Sawyer has acquired Foppiano's and Keene's shares. Smith has died and his shares have passed to his heirs. O'Connor has died and his shares have passed to his widow.

Public information circulated by the Kennel Club notes that less than 7/10 of 1% of the dollar wagered was paid out as dividends to stockholders. Nevertheless, the investment has been and is a profitable one. Mr. Samish described it before the Kefauver Committee as a "very remunerative, paying proposition". Samish's opinion is supported by the figures. The track has paid a total of \$1,195 per share in dividends through 1951. The 1951 dividend amounted to \$80, equal to the cost of the share at the outset.

Horse racing is conducted at Portland Meadows, outside the City Limits of Portland under the auspices of the Portland Turf Association. Henry W. Collins, who is presently leading the committee to save pari-mutuel revenue, is the president. William P. Kyne, also Manager of the Bay Meadows, is the General Manager. The track first operated in the 1946-1947 season. Partly due to heavy loss in the Vanport flood in 1948, this corporation lost the property through foreclosure proceedings. Later the Portland Turf Association organized and acquired the track. Total amount wagered at Portland Meadows in the 1950-1951 season was \$2,787,363 in 26 days of racing, which compares with \$9,983,459 at the Kennel Club dog track in 51 days of racing. Making a correction for the number of days of racing it appears that in the 1950-1951 season total wagering at the horse track amounted to better than half the total amount wagered at the dog track per racing day.

No breakdown in stock ownership in the Meadows was furnished to the Committee. However, the Committee was advised by track representatives that Kyne has an interest in it as well as local shareholders, and that a mortgage on the premises is held locally. Elimination of pari-mutuel racing would doubtless cause loss to the shareholders and possibly to the mortgagee. The Committee was given to understand that the track is still not showing a profit. However, track representatives were confident it would soon do so, and they pointed to Bay Meadows which lost money for several years, and then began to make money. The total amount wagered in the 7th year of the track's operation compares very favorably with the total wagered in the 7th year of the dog track's operation despite the flood setback. It should also be noted that the initial investment in the horse track even after reorganization, amounted to \$530,000 which compares with \$100,000 for the dog track, which found a stadium in existence and available for rental.

3. The Process and Proceeds of Wagering

Wagering on licensed tracks is handled exclusively through the pari-mutuel system which is described in Appendix A. The pari-mutuel system is considered the fairest of all such gambling systems.

Of the total amount bet on all animals, nearly three-fourths is on the dogs. The rest is on horses. It is stated in the official report of the State Racing Commission that 87% of the money wagered is returned to the general public and 13% only retained by the track. This statement is technically correct. However, it is based on the assumption that every dollar wagered is a "fresh" dollar, which is obviously not the case. Much of the money won on the first race is wagered on succeeding races, and consequently the actual bits of dollars that go to the track is undoubtedly much greater than the amount claimed.

Disposition made of the stakeholder's fee, or takeout percent, amounting to 13% of the total number of dollars passing through the machines, is set forth in the majority report. The majority report also sets forth the disposition of the state's portion and the sums paid out to expositions, fairs and to each county.

Inquiries addressed to the counties produced information that racing moneys supported five fairs entirely and seven fairs substantially. Irrespective of whether a fair is held each county receives its share which amounted to \$12,800 in 1952, and apparently is not required to account to the state for the moneys received. It should be noted that only 17 counties were willing to answer the inquiry and it seems reasonable to infer that those with the most accurate records reported. It should also be noted ~~that these~~ funds are distributed irrespective of size, population, or budget, share and share alike.

4. Economic Effect of Pari-Mutuel Wagering

Racing representatives advised that most of the dogs and one-third of the horses racing in Oregon are Oregon bred. The breeding industry extends in varying degree to 36 counties, and the conditions are reported good for this enterprise. These representatives felt that the breeding industry would collapse were racing eliminated in this state.

The Committee could not unearth any statistical information as to what individuals or groups profited or lost as the result of wagering at the tracks. Without a detailed questionnaire addressed to all bettors it is impossible to arrive at such information.

The committee found no evidence that the Multnomah County Welfare load has increased as a result of unsuccessful wagering. It found no evidence that retail credit collections were affected one way or the other as a result of wagering. Several witnesses indicated that racing brought patrons into the county, and that a number of auto courts were dependent to a considerable extent upon racing patrons.

Multnomah Stadium and the property on which it stands is owned by the Multnomah Athletic Club. The stadium is operated, however, by the Multnomah Stadium Association, a corporation, which leases the stadium from the club. The Multnomah Kennel Club in turn leases the stadium from the Stadium Association. At the present time, the Kennel Club pays an annual rental of \$100,000 to the Stadium Association. Rent paid to the Stadium Association to date amounts to more than \$1,000,000 and the Multnomah Club itself has profited very substantially. Should dog racing be eliminated there will be a deficit which will have to be made up by securing new uses for the stadium, or by subsidy from some private or public source.

The suggestion has been made to the committee, and is now being advertised by racing interests that if dog racing were banned in Oregon it would simply move over to Vancouver. This concern seems unwarranted in view of a recent ruling by the Attorney General of Washington that greyhound racing in that state is illegal.

5. Pari-Mutuel Wagering, Crime and Corruption

The committee was not armed with the power of subpoena nor the power to punish for contempt. Consequently it has heard only those witnesses who were willing to appear and saw only those documents which witnesses desired to produce. These limitations are serious in an investigation of this type and can be overcome only partially by comparison of testimony, analysis of figures, independent research in documents of public record and, finally, by reading between the lines.

There is no substantial evidence before the Committee that races have been fixed, or that there has been an increase in crime directly attributable to wagering at the races. However, attempts have been made to fix races, which of course, suggests the presence of those who desire to fix races. Both the dog races and Portland Meadows appear to be operated in an orderly manner and with a conscious effort to eliminate fixing of races. No one seriously questions that professional gambling goes on at the dog races. The two representatives of the horse track interviewed denied that professional gambling goes on at the Meadows. It was their contention that the pools were not sufficiently large to attract professional gamblers. They conceded that professional gambling goes on at Bay Meadows, at which much larger totals are wagered on each race.

The lobby maintained at the state legislature by the racing interests is considered by those familiar with operations of the legislature to be one of the most effective. Several witnesses indicated their belief that money has changed hands at Salem on some occasions. No evidence of this was presented to the Committee. It seems obvious, however, that the political pressure exerted by the beneficiaries of the racing funds, both public and private, has had a profound effect upon the legislature, and effectually precludes any vigorous legislative supervision of racing.

This is perhaps best illustrated by the famous "Bookey Bill" in the 1947 Legislature. That bill, House Bill 237, would have legalized off-track betting in so-called betting parlors. It passed both houses of the Legislature and was sent to Governor Snell who vetoed the bill after a public hearing. Attempts to have all racing revenues accruing to the state placed in the general fund failed in both the 1949 and 1951 sessions.

It is important also to consider the effect upon the public of having the state government not only sanction gambling but participate in the proceeds. The report of the City Club Committee to investigate law enforcement in Multnomah County in February 1948 contains the following statement:

"There is no escape from the conclusion that public opinion is an important factor in the official and police policy toward crime. Judges, police officers and other officials have repeatedly pointed out that with the State of Oregon officially participating in the largest gambling operations in the state (horse and dog racing) and monopolizing the liquor business, the punishment of penny-ante operators lacks any rational justification. Furthermore, it is true that with gambling at horse and dog races officially sanctioned by the people, together with traffic in liquor, there is a widespread tendency for citizens generally to tolerate or even to justify unofficial gambling and bar keeping. It is no function of this Committee to endeavor to determine the moral issue which this situation poses. The people of the State of Oregon and the City of Portland must decide it."

The Sheriff of Multnomah County and the City Police pointed out to this Committee that the principal objection to the existence of legalized gambling at pari-mutuel tracks was that it makes enforcement of other anti-gambling statutes and ordinances such as those affecting pinballs, punchboards, card games, and slot machines extremely difficult. This observation appears to be logical. We suspect that the public, uninterested in nice legal distinctions, finds the distinction drawn between wagering at tracks and playing of punchboards not only unfair, but silly.

We are reminded by the Kefauver Committee findings that suppression of this so-called penny-ante gambling is vital. The "lowly punchboard" is a major racket, just as are slot machines and narcotics. In this connection, last spring the City Club supported an ordinance abolishing punchboards and overrode the objection that loss of candy and tobacco tie-ins would put numerous proprietors out of business. There is likewise an unequivocal finding by the Kefauver Committee that the myth that gambling is good for business has been deliberately propagated by the paid publicists of the gambling interests.

Policing the legalized tracks creates a problem for track operators and their solution raises another for local government. Your Committee was advised that the city and the county furnish the tracks with between 45 and 50 off-duty policemen and deputies. These men are selected by the track operators from rosters made available by the Chief of Police and Sheriff. The minority questions whether it is sound practice to have law enforcement officials on the payrolls of an operation which merits the closest scrutiny.

In the wake of the sensational Kefauver hearings, the American Bar Association Commission on organized crime published its report September 2 of this year. That commission strongly supported the Senate Committee in rejecting without qualification the view that the way to eliminate the organized crime which customarily attaches to gambling is to legalize professional gambling. The Commission pointed out that

"no one has ever been able to come forward with positive arguments in favor of professional gambling, in terms of intrinsic worth or social utility".

With respect to on-track betting at horse and dog races the Commission took what it described as a "conservative" view of statements that experience proved that legalized professional gambling was workable. It pointed out that the by-product of pari-mutuel is the extensive bookmaking operation that pours sums exceeding all revenues of any single state into the pocket of the nation's criminal syndicates.

Witnesses before this Committee suggested that in their opinion there was little bookmaking in Portland at the present time, and the majority attributes considerable importance to this. This condition can perhaps be attributed to the fact that we have at present a mayor who takes seriously her obligation to enforce the law. However, quick reference to the City Club report on law enforcement tells us that in 1948, gambling including bookmaking, was widespread in Portland, was controlled by syndicates, and

was operated under a system of police protection, with an estimated police payoff of \$60,000 per month. How long the public will put up with law enforcement remains to be seen. But it seems prudent in the light of experience to draft both law and policy on the assumption that more often than not public officials are less than zealous in this aspect of law enforcement.

The American Bar Association Commission goes on to point out the inevitable involvement of professional gamblers in politics. He has, the Commission observes, the omnipotent weapon of money. Where he is legalized and made quasi-respectable, his opportunities are increased accordingly.

"He has remained an evil corrupting influence in politics wherever legalization has been tried out."

FINDINGS

The minority finds that certain consequences of pari-mutuel wagering have been beneficial to the state:

(a) It has supplied additional revenues to the general fund, to the counties and to public and private fairs and expositions.

(b) It has afforded recreation to a minority of our citizens.

(c) It has afforded an outlet for gambling to a small minority which might otherwise attempt to gamble in less supervised surroundings.

(d) It has encouraged breeding of horses and dogs.

The minority finds that certain consequences of pari-mutuel wagering have been detrimental to the state:

(a) It has created a group of a dozen preferred beneficiaries, fairs and expositions, together with 36 counties and the Multnomah Athletic Club which have a direct vested interest in its perpetuation and hence have a constant temptation to enlist on the side of the tracks in any public controversy.

(b) It has paralyzed the state legislature's ability to regulate or limit pari-mutuel wagering by lobbying, by favors to legislators in appointments at the tracks, and by political pressure from county courts, fairs and expositions.

(c) It tends to create in our community substantial sums of money not traceable through ordinary business records, which sums constitute an easy source of funds for influencing legislation and affecting law enforcement.

(d) It has made logically untenable the position of those local officials who have conscientiously attempted to enforce state statutes and city ordinances against gambling, and thus renders more likely election of officials less concerned with law enforcement.

(e) It has been found in other states where legalized gambling has been attempted that off-track gambling customarily follows and that professional gamblers are made quasi-respectable with their political influence enhanced.

CONCLUSION

The future of our city and our state concerns us more than either past or present. Dog racing is highly profitable and, left alone, it will continue to flourish. Horse racing at Portland Meadows suffered a severe set-back in the 1948 flood, but we are confidently assured by those managing and investing in it that it too will flourish. The direct and indirect beneficiaries of racing funds become more dependent upon those funds.

We do not believe that vigorous regulation and merciless exposure are or will be the primary concern of those who benefit from racing. On the contrary we conclude that there will be unremitting pressure not to bite the hand that feeds them. The legislature is manifestly incapable of altering this condition. Thus we conclude that pari-mutuel wagering will expand and that it will become less controllable as a network of economic interest and political intrigue is spun around it. Our own experience in Portland prior to 1948, and the heavily documented recent investigations in other states demonstrate that organized gambling tends to erupt into political corruption at the slightest opportunity.

The time to look where we're going is before we get there. There are more important liberties than the liberty to gamble at a public race track. Pari-mutuel wagering is, for all its pleasures and profits, a standing invitation to political corruption. It is, we submit, not in the public interest.

We, therefore, recommend support of the proposed amendment.

Respectfully submitted,
 JOHN C. BEATTY, JR.
 HOWARD ARNETT