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1968: Senator Robert Kennedy speaking at an election rally. Harry Benson/Express/Getty Images

# Bobby Kennedy, the Mob, and Sports Betting Today

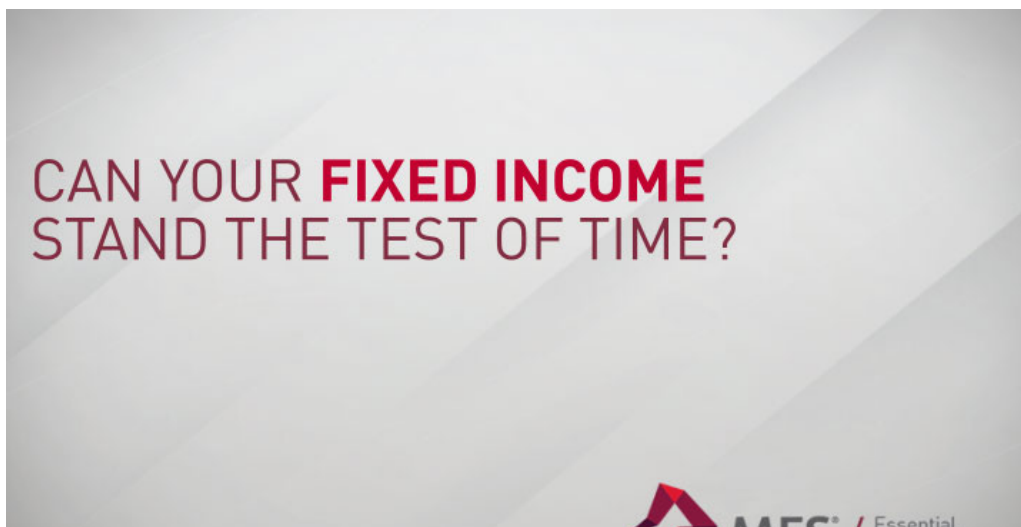


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*Commentary*

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A 1957 raid finally convinced FBI Director J. Edgar Hoover that there was such a thing as organized crime, but not until President John F. Kennedy appointed his younger brother, Robert (or Bobby), as attorney general did the federal government get serious about taking it on.

Bobby Kennedy recognized that organization and coordination made crime “syndicates” more dangerous than small criminal teams were on their own. He also recognized that organized crime made much of its money from illegal [gambling](#). He decided that the best way to fight the mob was to shut down its role in sports betting. He laid out his thinking for the public in an article in The Atlantic magazine.

Back then, gambling wasn’t the corporate enterprise that gaming (today’s preferred industry term) is now. Unless it was between friends, bets had to be placed with a bookie. The bookie would collect bets, track the outcomes, and pay the winners.

The problem with such a system is that sports betting can be one-sided and leave a bookie exposed. Suppose, for instance, that the Chicago Bears are playing the New Orleans Saints. A Chicago bookie would likely have a lot more money come in on the Bears. If he took that action and the Bears won, he would lose money when he paid the winners.

Whether it’s a bookie or a casino, “the house” always prefers to have action equal on each side. That way, the house takes a cut of the money without any risk. In fact, many criminal laws (including the one we are about to discuss) distinguish between a “mere bettor” and a “gambling operator,” by looking at whether the person or

entity was at risk (betting) or simply taking a cut of the action (running a gambling operation).

That is where organized crime came in. Rather than remaining exposed, the Chicago bookie could “lay off” some of the action, perhaps with a bookie in New Orleans (where the money might be coming in heavily on the Saints). The coordination between bookies, which was essential for the enterprise to thrive, was where the criminals got involved. Mobsters helped move the action from one state to another.

## The Wire Act

Gambling was usually a local matter, not under federal jurisdiction. Bobby Kennedy realized, however, that this interstate aspect of sports betting was a hook for federal jurisdiction. So he proposed a law that prohibited transferring betting information over telephone lines (or “wires”), the [Interstate Wire Act of 1961](#), commonly called the Wire Act.

The Wire Act’s purpose, according to Kennedy, was to help states enforce their own anti-gambling laws and to help suppress “organized gambling activities.” It provided, in relevant part:

**“Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.”**

News reporting of sporting events was permitted, but sports betting operations were prohibited from using the phone system to lay off bets or otherwise facilitate sports betting operations across state lines.

Kennedy was pleased with the results of the Wire Act. He wrote a letter to his brother, President Kennedy, in which he noted that, “[b]etting on football contests has dropped off drastically this year compared to 1960.” He identified the Wire Act as the reason, because it provided the Department of Justice (DOJ) with a new weapon “to deal with criminals, hoodlums, and racketeers,” according to SportsHandle.

By 1970, a new statute, the [Racketeer Influenced and Corrupt Organizations Act](#), became more important than the Wire Act in the federal government’s war on organized crime. Moreover, gambling shifted from telephones to the internet, a development that was more important than might readily meet the eye.

When the Wire Act was drafted, sport was the only type of betting likely to involve the crossing of state lines. Cards, dice, even “the numbers” (essentially a daily lottery) were local. You could bet on a remote race or sporting event. No one in New York, however, was betting on a roll of the dice or the turn of a card in Pennsylvania. It simply wasn’t a concern.

The internet changed that. Now, anyone could play cards, dice, numbers, slots—what have you—across state lines. Plus, many states began conducting lotteries. These lotteries were interconnected, especially with mega-games such as Powerball. The Wire Act had to be reconsidered. Did it apply to non-sports betting? There were even questions as to whether the Wire Act applied at all to internet-based gambling.

In 2006, the [Unlawful Internet Gambling Enforcement Act](#) “prohibit[ed] gambling businesses from knowingly accepting payments in connection with the participation of another person in a bet or wager that involves the use of the internet and that is unlawful under any federal or state law.” That didn’t, however, resolve the question as to whether the Wire Act applied to non-sports betting, and there seemed to be some apparent conflict.

## Online Lotteries

In 2011, at the request of the Illinois and New York state lotteries, the DOJ issued [an opinion](#) on coverage of the Wire Act. It concluded that “interstate transmissions of wire communications that do not relate to a ‘sporting event or contest’ fall outside

the reach of the Wire Act.” In other words, the Wire Act only applied to sports betting, so lotteries and other forms of gambling were free to use the internet and even cross state lines, as long as they were in compliance with state law. At least two federal courts of appeal reached the same conclusion. Several lotteries soon made their tickets available online.

Of course, in 2011, sports betting was illegal pretty much everywhere in the United States except for Nevada. That changed in 2018, when the Supreme Court struck down a federal law that had kept states from legalizing sports betting. Several states immediately put legislation in motion to develop sports betting.

Then, in [a new opinion](#) released late last year, the DOJ caught the industry by surprise and changed its mind. It concluded that the Wire Act does apply to all gambling, not just sports betting. The DOJ [announced](#) in January this year that it would, however, delay enforcement for 90 days to “give businesses that relied on the 2011 ... opinion time to bring their operations into compliance with federal law.”

The New Hampshire Lottery Commission filed suit, asking the federal court to set aside the new opinion. Central to the case is that the new interpretation has the very real potential to render all kinds of state lottery products illegal. The Wire Act is a criminal statute that imposes severe penalties, including lengthy terms of imprisonment, on violators. Operators of legitimate businesses that carry out most of their transactions with state governments may be in violation of federal law.

How will this end? I’m not a big fan of lotteries, but I expect the DOJ eventually to succumb to pressure from the states. The lotteries are too well established for an RFK-era, anti-mob law to shut them down now. Until this matter is resolved, however, operators of what once were considered completely legitimate businesses are potentially subject to severe criminal penalties. Regardless of what you think about legalized gambling, that’s simply not fair.

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*Views expressed in this article are the opinions of the author and do not necessarily reflect the views of The Epoch Times.*

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