

INTERIM REPORT.

N. J. Legislature. Senate. Committee to Study
the Subject of the Playing of Games wherein Art
or Skill is Required.

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I N T E R I M R E P O R T
OF
SENATE COMMITTEE
PURSUANT TO SENATE RESOLUTION NO. 8

*N.J. Legislature, Senate, Committee to Study the
Subject of the Playing of Games wherein Art
or Skill is Required*

September 17, 1956.

MEMBERS OF COMMITTEE:

Senator Charles W. Sandman, Jr.,
Chairman

Senator Richard R. Stout

Senator John A. Lynch

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Interim Report of Senate Committee
pursuant to
Senate Resolution No. 8

This committee was appointed following Executive disapproval of Senate Bill No. 336, which had been adopted during the current legislative session to amend R.S. 2A:112-1 to exempt the playing of certain amusement games wherein art or skill is required from statutory prohibitions against the playing of games of chance.

Executive disapproval was based on the claim that the proposed amendment to R.S. 2A:112-1 fell within the condemnation of a recent Supreme Court decision. Suggestion was made that the goal sought to be accomplished to exempt games of skill from the statutory interdiction had best be accomplished by constitutional amendment, which involves the cumbersome and costly process of public referendum at a general election.

On the basis of our study to date, we are not convinced that the sole remedy lies in constitutional revision, and we are loath to recommend amendment of our basic law unless and until all statutory avenues of approach have been exhausted.

More specifically, as respects the coming November election, the requirement for public advertising not less than three months prior to submission of an amendment question to the voters renders futile any attempt at constitutional approach in 1956.

Further impediments exist this year even if a referendum question had been framed earlier and the question advertised three months. Matters affecting this question are still in litigation in the courts, and the public should have adequate time for an educational campaign on the issues involved.

The basic point to be determined in the statutory approach is to frame a statute that will stand the test of the Supreme Court's unanimous opinion in the case of State vs. Ricciardi (18 N.J. 441). The court held in that case: "The principle is settled that in determining the presence of gambling in a particular operation or form of activity, the criterion is not whether the element of skill is present to some degree but whether it or chance is the dominant factor in attaining the desired result."

This committee will continue its study in accordance with the mandate in Senate Resolution No. 8 and will seek to recommend legislation clarifying amusement games wherein art or skill is the dominant factor, either later in the current session but in no event later than the 1957 session. It is our belief at this time that this can be accomplished by careful draftsmanship.

We would be remiss if we did not comment on the disastrous economic consequences that befell our amusement and resort areas, particularly in the seashore counties, as the result of the Supreme Court decision barring games of skill on the grounds they contravened the ancient statute, namely, R.S. 2A:112-1.

It is well established that the recreation business is New Jersey's largest industry, due primarily to the God-given advantages of our extensive coastline from the Highlands to Cape May. Millions of visitors are attracted annually from all parts of the United States as well as from within New Jersey. While nature has provided the basic attraction of the ocean and its surf and sands, this alone is not sufficient to attract and hold the interest of visitors and tourists.

They require additional facilities and entertainment, such as our hotels and motels, restaurants, theaters, golf courses and

countless other attractions. Included among these are our boardwalks and midways, center of our amusement enterprises. Games involving chance and skill, in which amusement rather than a return in the form of prizes or awards, are and always have been a prime drawing attraction to the midways.

With the closing down of these games in June, in advance of the season's traditional opening, our boardwalks and all of the related businesses that share in the patronage of our tourists and visitors were gravely affected. The effect spread far beyond the owners, or operators, of the games and their patrons. The overall loss of revenues to all businesses, due to the falling off of patronage because of the closing of the games, has undoubtedly run into millions of dollars.

Nor has the adverse effect of the Supreme Court decision fallen solely on the seashore counties. In inland and lakeland counties agricultural fairs, bazaars conducted by volunteer firemen's organizations, veterans' posts, fraternal groups and other high-minded civic societies have suffered loss of public patronage and revenues. These summertime revenues are frequently the sole or major support of these groups.

It should be the concern and duty of this Legislature to provide the legal remedy, within the framework of judicial interpretations of our laws and constitution, whereby games in which skill or art is the dominant factor may be licensed to operate for the entertainment and amusement of our citizens.

Respectfully submitted,

Charles W. Sandman, Jr.

Richard R. Stout

John A. Lynch

September 17, 1956