

1 CHAIR JAMES: That takes us up to Section 5. Let me
2 just give everybody a minute to catch up with us.

3 Technology and the Future of Gambling, 5.1, the
4 Commission recommends to the President, Congress, and the
5 Department of Justice that the Federal Government should prohibit
6 internet gambling within the United States and ask the Department
7 of Justice to develop enforcement strategies.

8 Further, the Commission recognizes that internet
9 gambling is expanding rapidly, bringing gambling into the home of
10 every family with a computer. Since it crosses state lines, it
11 is difficult for states to adequately monitor and regulate such
12 gambling.

13 Do I hear a motion?

14 COMMISSIONER BIBLE: I'll move that.

15 COMMISSIONER LEONE: It's a grammatical -- one
16 correction -- maybe we could fix this easiest by saying, "And
17 asks that the Department of Justice," and so we'd have -- it's
18 still not my ideal sentence, but it's grammatically correct then.

19 CHAIR JAMES: I'm sure our editors will clean that up.
20 I heard a motion. Do I hear a second?

21 COMMISSIONER MOORE: Second.

22 CHAIR JAMES: It has been moved and seconded.
23 Discussion?

24 COMMISSIONER BIBLE: Move the question.

25 CHAIR JAMES: Move the question. All in favor?

26 (Ayes.)

27 Any opposed?

28 (No response.)

29 Any abstentions?

30 COMMISSIONER LOESCHER: I abstain, Madam Chair.

1 CHAIR JAMES: We have one abstention.

2 5.2, the Commission recommends to the President and
3 Congress the passage of legislation stating that any credit card
4 debt incurred while gambling on the internet are unrecoverable.

5 COMMISSIONER MOORE: Move.

6 COMMISSIONER LANNI: Second.

7 COMMISSIONER BIBLE: Well, this is a little bit
8 inconsistent with the one we just talked about where we asked DOJ
9 to develop a strategy.

10 COMMISSIONER LEONE: How about if we change it to say,
11 "To help DOJ, the Commission recommends that you" --

12 (Laughter.)

13 I'm all for that.

14 COMMISSIONER BIBLE: We talked about this fairly
15 extensively in --

16 CHAIR JAMES: Yes, we did.

17 COMMISSIONER BIBLE: -- in the past, and some of the
18 enforcement mechanisms that are contained within the legislation
19 that is currently pending are more traditional. And it would
20 seem to me appropriate to also look at some other mechanisms, one
21 of them being to take a look at the use of credit card
22 mechanisms, or in the next one take a look at wire transfers and
23 things of that nature, kind of follow the money and develop the
24 appropriate enforcement strategy to prohibit the flow of money.

25 CHAIR JAMES: Is there any desire to maybe combine 2
26 and 3?

27 COMMISSIONER BIBLE: Yeah. I think they can all be
28 rolled up into one, as examples of enforcement strategies.

29 COMMISSIONER WILHELM: Combine which two?

30 CHAIR JAMES: 5.2 and 5.3.

1 COMMISSIONER McCARTHY: There are a couple more that
2 may not be mentioned in here, Bill, that we have talked about in
3 your Internet Subcommittee.

4 COMMISSIONER BIBLE: Well, we talked about internet
5 service providers, and I believe there is a recommendation down
6 here that addresses internet service providers. We did have some
7 discussion about going after the individual debtors, and that has
8 been dropped from -- it's probably appropriate that we --

9 CHAIR JAMES: I am waiting for a motion. I don't think
10 we have one before us. It was. It was seconded. That was 5.2.

11 COMMISSIONER BIBLE: I'd move 5.2 and 5.3.

12 CHAIR JAMES: But that would have to now be a friendly
13 amendment because I think someone did move 5.2.

14 COMMISSIONER MOORE: That would be fine.

15 CHAIR JAMES: That's fine? So --

16 COMMISSIONER LANNI: Can I raise a --

17 CHAIR JAMES: Hearing no objection --

18 COMMISSIONER McCARTHY: We had discussed, if I may ask
19 of Mr. Bible -- we had discussed the issue of exemptions during
20 the hearings in the Internet Subcommittee. Where is that covered
21 in any of the --

22 COMMISSIONER BIBLE: You know, I don't know if they
23 are, but it may be in this 5.4, which will bring it up, because
24 this talks about a participant physically going to a specific
25 location. What's identified here as being consensus
26 recommendations from the Internet Subcommittee, I do not know the
27 origination of that because we never came to consensus
28 recommendations at the Internet Subcommittee on these three
29 particular items. We discussed these.

1 CHAIR JAMES: Yeah. My note here said that 5.2, 3, and
2 4 are drawn from staff notes of the Internet Subcommittee
3 proceedings.

4 COMMISSIONER BIBLE: So we discussed them, but we never
5 -- we never --

6 COMMISSIONER LEONE: Did you actually discuss brain
7 waves? Is that --

8 (Laughter.)

9 CHAIR JAMES: Right now we have 2 and 3 before us for
10 discussion. We will get to 5.4. And we have a friendly
11 amendment which says that we can adopt 2 and 3 together. Do we
12 need any more discussion of this? Can I get a call for the
13 question? Are you ready to vote?

14 COMMISSIONER MOORE: Ready.

15 CHAIR JAMES: All in favor of 5.2 and 3?

16 (Ayes.)

17 Any opposed?

18 (No response.)

19 Any abstentions?

20 COMMISSIONER LOESCHER: I abstain.

21 CHAIR JAMES: One abstention.

22 Okay. Now we're ready for 5.4 and brain waves.

23 (Laughter.)

24 COMMISSIONER LEONE: I hope somebody can explain this.
25 I want to know now, because I'm uncomfortable not knowing, who
26 recommended this.

27 COMMISSIONER BIBLE: I think this one was Mr.
28 McCarthy's.

29 CHAIR JAMES: I --

1 COMMISSIONER McCARTHY: I think the brain wave
2 amendment was Mr. Bible's.

3 COMMISSIONER BIBLE: I don't believe so.

4 COMMISSIONER WILHELM: I would respectfully suggest
5 that we not move 5.4.

6 (Laughter.)

7 COMMISSIONER BIBLE: I think so also.

8 CHAIR JAMES: Do you want to consider it without the
9 brain waves or --

10 COMMISSIONER BIBLE: No.

11 CHAIR JAMES: -- just not at all?

12 COMMISSIONER BIBLE: No.

13 CHAIR JAMES: Do we hear any motion whatsoever? Well,
14 hearing no motion -- wait. Yes?

15 COMMISSIONER LEONE: Well, it's just -- I have a
16 question, which is: is this the only time we get at the other
17 kinds of activities that involve in-home gambling? I mean --

18 CHAIR JAMES: This is --

19 COMMISSIONER LEONE: So we want to have a
20 recommendation in this area because we have a strong consensus
21 about it. I think --

22 CHAIR JAMES: Well, it seems to me that if you
23 eliminate one phrase in there, we may have something reasonable
24 to talk about.

25 COMMISSIONER DOBSON: Brain waves has just got to go.

26 CHAIR JAMES: Brain waves have got to go. And let me
27 read --

28 COMMISSIONER WILHELM: Very few of the public would
29 accuse this Commission -- any of us of having much brain wave
30 activity by now.

1 (Laughter.)

2 CHAIR JAMES: Let me read that with the edited
3 language. The Commission recommends to the federal and state
4 governments that gambling should be retained as a destination
5 activity. Any advancements in technology, including, but not
6 limited to, the internet, communication wires, satellites, or any
7 other system which provides for gambling without a participant
8 physically going to a specific location to gamble, should be
9 prohibited.

10 COMMISSIONER WILHELM: I'll move that one.

11 CHAIR JAMES: It's been moved. Is there a second?

12 COMMISSIONER McCARTHY: Does that mean no betting from
13 home?

14 COMMISSIONER BIBLE: That would mean no betting from
15 home, no account wagering, no a number of things. That's the way
16 I would read that.

17 COMMISSIONER McCARTHY: What was the second part of
18 your response?

19 COMMISSIONER BIBLE: No account wagering.

20 CHAIR JAMES: No account wagering.

21 COMMISSIONER MOORE: No sports --

22 CHAIR JAMES: Do I hear a second?

23 COMMISSIONER McCARTHY: Second.

24 CHAIR JAMES: I heard a second. We're ready for
25 discussion. My first point of discussion is, of course, as is
26 always the case, we should look at the language -- recommends to
27 the federal, state governments. And if we're going to go to all
28 of the technology, you want to include tribal governments as well
29 and have that consistent language.

1 COMMISSIONER DOBSON: Madam Chair, that first sentence
2 of 5.4 needs to be tweaked just a little bit because it implies
3 that every state has destination gambling and should, in fact,
4 have it. And there are two that don't, as I understand it --
5 Hawaii and Utah.

6 So it should read, "If it has legalized gambling, it
7 should only be as destination gambling and not" --

8 COMMISSIONER LEONE: Jim, I think we might want to go
9 further. While destination is not a term of art, we have used it
10 often in this Commission to refer to the Las Vegas and
11 Pascagoula and Atlantic Cities as opposed to the neighborhood
12 7-11 store. And I think what we're talking about -- we might
13 want to rewrite this and turn it around and exercise --

14 COMMISSIONER DOBSON: Do you understand my concern
15 about the way it's written?

16 COMMISSIONER LEONE: Sure.

17 COMMISSIONER DOBSON: It implies that states should go
18 out and establish destination gambling, and we're not saying
19 that.

20 COMMISSIONER WILHELM: Richard is right. We have used
21 that word for a totally different concept here.

22 COMMISSIONER McCARTHY: And let me add, too, Madam
23 Chair and members, that I am conflicted myself on this issue.
24 But I think all members should recall that nine states now allow
25 account wagering, and it has been a practice in some of those
26 states for a couple of decades.

27 It's been there for a very long period of time, and I
28 -- although I am really -- as a general position, want to oppose
29 putting loopholes in any kind of attempt to prohibit gambling

1 over the internet, or encouraging betting from home. I think you
2 may want to weigh that -- that --

3 COMMISSIONER LEONE: Leo or Bill could try to draft it.

4 COMMISSIONER BIBLE: Well, and account wagering really
5 is limited in Nevada to sports and race activities, and the other
6 jurisdictions are simply the pari-mutuel activities. And some
7 states allow it intrastate; other states -- New York, principally
8 -- will allow it interstate and will market fairly aggressive
9 into other states.

10 CHAIR JAMES: Bill, could you take a crack at fixing
11 that, if we table it for right now?

12 COMMISSIONER BIBLE: I can try and fix it, but I need
13 to know what you want to do.

14 COMMISSIONER DOBSON: Madam Chair?

15 CHAIR JAMES: Certainly. Commissioner Dobson?

16 COMMISSIONER DOBSON: If you'd just eliminate the first
17 sentence, which doesn't add or detract anything, you get to where
18 -- to the issue I was raising.

19 CHAIR JAMES: Okay. Let's start with that and see what
20 happens.

21 COMMISSIONER LANNI: You don't have a recommendation,
22 then.

23 COMMISSIONER DOBSON: The Commission recommends that
24 any advancements --

25 CHAIR JAMES: I'm sorry. What was your point, Terry?

26 COMMISSIONER LANNI: No. I didn't finish reading
27 "should be prohibited." It would not be a recommendation without
28 "should be prohibited."

1 COMMISSIONER LEONE: Well, we can also deal with the
2 old -- these questions by saying, "not be expanded as a result of
3 any advancements in technology," etcetera, and then we would --

4 COMMISSIONER McCARTHY: That could be appropriate as to
5 the account wagering issue.

6 COMMISSIONER LEONE: That makes more sense.

7 COMMISSIONER WILHELM: I would support that, so long as
8 that concept is limited to account wagering. I mean, internet
9 gambling already exists, and we don't think it --

10 COMMISSIONER McCARTHY: It's dangerous to start opening
11 holes in other areas.

12 COMMISSIONER WILHELM: Yes. But I think the account
13 wagering being limited to what -- to not expanding makes a lot of
14 sense.

15 CHAIR JAMES: Well, what you would be left with is,
16 based on where I hear the discussion right now, if you've
17 eliminated that first sentence, "The Commission recommends that
18 any advancement in technology, including, but not limited to, the
19 internet communications, wire, satellites, or any system which
20 provides for gambling without a participant physically" -- would
21 you stick in "should not be expanded"?

22 COMMISSIONER BIBLE: Instead of saying, "should be
23 prohibited," just say "should not be expanded."

24 CHAIR JAMES: But you don't want that to apply to
25 everything. You only want it to apply to, as I understand it,
26 account wagering.

27 COMMISSIONER WILHELM: Well, why don't we just say --
28 put a comma after "prohibited" and say something that "and that
29 account wagering, as it presently exists in certain states,
30 should not be expanded."

1 CHAIR JAMES: Should not be prohibited and account
2 wagering, where it exists --

3 COMMISSIONER WILHELM: In certain states should not be
4 expanded.

5 COMMISSIONER DOBSON: Can you diagram that sentence?

6 CHAIR JAMES: Should not be expanded.

7 COMMISSIONER McCARTHY: If we're giving Mr. Bible some
8 guidance, I think --

9 CHAIR JAMES: Right.

10 COMMISSIONER McCARTHY: -- why can't we -- it's already
11 written.

12 COMMISSIONER BIBLE: It sounds to me like it's mostly
13 written at this point.

14 COMMISSIONER McCARTHY: Well, I'm not sure of that last
15 phrase. That could use some cleaning up.

16 CHAIR JAMES: I think it could use some wordsmithing,
17 but I think that we do have the sense of where the Commission
18 wants to go on that.

19 COMMISSIONER MOORE: As for discussion, do we want --

20 CHAIR JAMES: Terry, did you have another --

21 COMMISSIONER LANNI: Well, I was just wondering -- I
22 thought that Senator Kyle's bill was addressing this issue, and
23 that's moving through the Senate again. But I don't know.

24 COMMISSIONER McCARTHY: Senator Kyle's bill has several
25 exemptions in it that -- maybe that's considered the reality of
26 Congress, which perhaps should not have been added. The more
27 exemptions you add the more justification to other groups to seek
28 their exemptions.

29 COMMISSIONER LANNI: I understand. I happen to support
30 those exemptions, so I will not be able to vote for this.

1 CHAIR JAMES: Bill, are you going to work on that and

2 --

3 COMMISSIONER BIBLE: I'll take a look at that.

4 CHAIR JAMES: Okay. I think you have a sense of where
5 we want to go on that.

6 COMMISSIONER WILHELM: Before we leave 5.4, or at least
7 before the Commission concludes its activities, I'd really like
8 to know where brain waves came from.

9 (Laughter.)

10 COMMISSIONER BIBLE: I sense the author may be standing
11 by the door.

12 (Laughter.)

13 CHAIR JAMES: I don't think so. That's an interesting
14 one. Okay.

15 The Commission recommends to the President and Congress
16 that because internet gambling is expanding most rapidly through
17 offshore operators, the Federal Government should take steps to
18 encourage or enable foreign government not to harbor internet
19 gambling organizations that prey on U.S. citizens.

20 COMMISSIONER WILHELM: So moved.

21 COMMISSIONER BIBLE: Second.

22 CHAIR JAMES: Question? I mean, discussion? Hearing
23 none, question. All in favor?

24 (Ayes.)

25 Any opposed?

26 (No response.)

27 Any abstentions?

28 (No response.)

29 Five, six.

1 The Commission recommends to the President, Congress,
2 and the Department of Justice that concerning enforcement of
3 internet gambling prohibition policymakers should update existing
4 laws prohibiting the use of phone lines for gambling information,
5 to include wireless internet services.

6 The internet service provider should be required to
7 provide search engines to block customer access to offshore
8 gambling web sites. Further, the Commission recommends that
9 internet advertising should be banned, and Western Union and
10 credit card companies should be involved in the prohibition of
11 internet gambling.

12 The Commission recognizes that given technology
13 involved, enforcement of internet gambling prohibition will be
14 difficult at best and will require creative effort by many.

15 Do I hear a motion?

16 COMMISSIONER DOBSON: So moved.

17 COMMISSIONER MOORE: Second.

18 CHAIR JAMES: It has been moved and seconded.
19 Discussion?

20 COMMISSIONER LEONE: I just wonder if this language
21 shouldn't be integrated with some of that language that's part of
22 our suggestions for implementation strategy and enforcement. I
23 think that can be handled editorially if we pass the overall
24 recommendation.

25 CHAIR JAMES: My suggestion would be that if we pass
26 this, then we do exactly as Leo says, instruct our editors to
27 incorporate that into one recommendation.

28 COMMISSIONER LEONE: Do you have a second?

29 CHAIR JAMES: Do I have a second?

30 COMMISSIONER LEONE: Yes.

1 CHAIR JAMES: It was seconded.

2 COMMISSIONER LOESCHER: Madam Chair?

3 CHAIR JAMES: Commissioner Loescher?

4 COMMISSIONER LOESCHER: I don't know what you just
5 said, but I have a specific concern that I need clarification on,
6 whether or not that provision you just added --

7 CHAIR JAMES: 5.6.

8 COMMISSIONER LOESCHER: -- would incorporate the
9 problem that I'm concerned about. The use of existing telephone
10 technology to link bingo games between the Indian reservations,
11 and that's used for playing Class 2 bingo games, I'm wondering if
12 your list of exemptions includes that. If not, I have a specific
13 amendment I'd like to make to this section.

14 COMMISSIONER MOORE: I believe we've got that in the
15 recommendations on Indian gaming, that we do preserve that, the
16 bingo.

17 COMMISSIONER BIBLE: And there's a recommendation in
18 the tribal gaming.

19 CHAIR JAMES: I guess what Bob is saying, though, is
20 that he doesn't want to have any apparently conflicting
21 recommendations. If we adopt this, will that appear at least to
22 conflict with that recommendation that will come up later?

23 COMMISSIONER BIBLE: No. And he makes a good point
24 because that would be gambling information that is being supplied
25 in terms of linked bingo operations.

26 COMMISSIONER LANNI: What about pari-mutuels?

27 COMMISSIONER BIBLE: Well, there's an awful lot of
28 wagering information that takes place legally now -- pari-mutuel
29 wagering information, some of the account wagering information,

1 and link -- well, linked games within a state is all wagering
2 information or gambling information.

3 COMMISSIONER MOORE: What he's talking about is just
4 linking the casinos -- I mean, the bingo halls together. Isn't
5 that correct?

6 COMMISSIONER LOESCHER: Yes.

7 CHAIR JAMES: Let me make sure I understand this
8 because I'm not sure that this particular recommendation has an
9 impact on that. Because it says that the existing law should be
10 updated, and so for -- prohibiting the use of phone lines for
11 gambling information, to include wireless internet services --
12 I'm not sure this gets at the issue.

13 COMMISSIONER BIBLE: The first sentence doesn't really
14 mean anything. It just tells you to update them. It doesn't
15 tell you how to update them.

16 CHAIR JAMES: Right.

17 COMMISSIONER WILHELM: Well, the first sentence
18 actually I think does mean something. It says certain things are
19 currently prohibited over phone lines. Those same things should
20 be prohibited over the internet.

21 So I think Bob's concern would be addressed by that
22 because those -- the specific type of bingo activity he's talking
23 about, which is also covered in 6.15, is, as Dr. Moore points
24 out, as a recommendation of the subcommittee, is not now
25 prohibited over the phone lines; therefore, would not be
26 prohibited in the future under this particular recommendation.
27 At least that's the way I would read it.

28 CHAIR JAMES: Is there anything that we could do to
29 that to make it more clear, or to say that so that there is no --

1 COMMISSIONER WILHELM: And likewise, the transmission
2 of information of the kind that Bill is talking about, if it's
3 not presently illegal, I don't see how this would make it
4 illegal.

5 COMMISSIONER MOORE: What do you --

6 CHAIR JAMES: Commissioner Lanni?

7 COMMISSIONER LANNI: I'm not so sure when you take a
8 look at the first one, which we've said we want them to prohibit
9 internet gambling within the United States, isn't that pretty all
10 inclusive?

11 COMMISSIONER LEONE: Yeah. I think this is not
12 necessary --

13 COMMISSIONER LANNI: I don't think it's necessary.

14 COMMISSIONER LEONE: -- given the broad prohibition
15 that we --

16 COMMISSIONER LANNI: I agree. Why don't we dump it?

17 COMMISSIONER LEONE: We already said we don't want to
18 use the internet for gambling, and this basically says, "Don't
19 let the internet be a substitute for" -- this is a more narrow
20 case of the general point we made above.

21 COMMISSIONER LANNI: And some of this came up when we
22 were at different stages of --

23 CHAIR JAMES: I think we had a motion. It could -- and
24 so if the -- and it was a Dobson-Moore motion.

25 COMMISSIONER DOBSON: I will accept Mr. Lanni's
26 suggestion.

27 COMMISSIONER MOORE: Fine.

28 CHAIR JAMES: Okay. Commissioner Moore?

29 COMMISSIONER MCCARTHY: Is there any benefit in
30 including in the language that we did pass the specific

1 references to Western Union, credit card companies, internet
2 service providers?

3 COMMISSIONER LANNI: Why would you want to limit it?
4 It seems to me --

5 COMMISSIONER McCARTHY: Oh, no, no. Not limited to.

6 COMMISSIONER LANNI: No. But I think by mentioning
7 something, why do you point that out? I think it's covered in
8 the whole, as Richard mentioned.

9 COMMISSIONER McCARTHY: Is that covered in the Kyle
10 legislation? I don't think so.

11 COMMISSIONER BIBLE: No. Parts of this are not.

12 COMMISSIONER WILHELM: Well, we've asked the Department
13 of Justice to develop enforcement strategies. Isn't that all
14 these are is enforcement strategies?

15 COMMISSIONER BIBLE: Yes.

16 CHAIR JAMES: Leo, do you feel --

17 COMMISSIONER McCARTHY: Right. They tiptoe around
18 talking to a number of large businesses, which have a major role
19 in the whole communications network of internet betting.

20 When we had Mr. Bible's Internet Subcommittee hearings,
21 most of them came and testified why it would be impossible for
22 them to be prohibited because they really could never enforce it.

23 COMMISSIONER BIBLE: That's true.

24 COMMISSIONER McCARTHY: Everybody wants out. Nobody
25 wants to accept some responsibility for enabling internet
26 betting.

27 CHAIR JAMES: Leo, would you want to include anyone
28 other than Western Union and credit card companies?

29 COMMISSIONER McCARTHY: Internet service providers.

1 COMMISSIONER BIBLE: And this does talk about IS fees
2 in that first sentence, where they have search engines to block
3 customer access.

4 COMMISSIONER WILHELM: I don't have a problem with
5 including it.

6 COMMISSIONER BIBLE: It seems to me that what you want
7 to recommend is you want to recommend that somebody, like DOJ,
8 develop an enforcement strategy. You want to kind of develop a
9 list of possibilities or things that they could look at --

10 COMMISSIONER McCARTHY: Including, but not limited to.

11 COMMISSIONER BIBLE: -- including, but not limited to
12 --

13 CHAIR JAMES: Can we use that language then, "included,
14 but not limited to, internet service providers, Western Union,
15 credit card companies"?

16 COMMISSIONER BIBLE: Western Union -- I wouldn't name
17 them by name. It seems to me that any transmitter of money, or
18 anyone who has the ability to transmit money -- because Western
19 Union is not the only company.

20 COMMISSIONER McCARTHY: No. Any -- I mean, if there
21 are generic terms we can use that everybody will understand,
22 that's fine.

23 CHAIR JAMES: Included, but not limited to. And I
24 think we have the sense of where we want to go with this.

25 COMMISSIONER McCARTHY: I have no reason to single out
26 Western Union. They always send my telegrams on time.

27 CHAIR JAMES: With that --

28 COMMISSIONER BIBLE: You still send telegrams? I use
29 e-mail.

1 CHAIR JAMES: -- how would the controllers of this
2 particular motion like to proceed?

3 COMMISSIONER McCARTHY: With those amendments?

4 COMMISSIONER DOBSON: And this --

5 COMMISSIONER McCARTHY: Those are being added to 5.1.
6 You have unanimous consent, I believe, of the sense of the
7 Commission.

8 CHAIR JAMES: Okay. Then, those will be added to 5.1.

9 COMMISSIONER BIBLE: That's fine.

10 CHAIR JAMES: 6.1.

11 COMMISSIONER LOESCHER: Madam Chair?

12 CHAIR JAMES: How about a break?

13 COMMISSIONER LOESCHER: Madam Chair, I'll be
14 distributing a piece of paper to each Commissioner.

15 CHAIR JAMES: I think they already have it.

16 COMMISSIONER LOESCHER: No, I have a new one.

17 CHAIR JAMES: You've got a new one.

18 COMMISSIONER LOESCHER: Yeah.

19 CHAIR JAMES: More paper. We're going to take a
20 15-minute break. Stand in recess.