

SPORTS BETTING: WHY THE UNITED STATES SHOULD GO ALL IN

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I. Introduction

Each year, roughly 80 to 380 billion U.S. dollars (“USD”) of illegal wagers are placed on sporting events in the United States.¹ Absent government regulation, organized crime and offshore gambling websites have capitalized on this profitable industry.² Prior to 1992, determining sports betting’s legality was a right reserved to the states. In 1992, intending to maintain the integrity of professional and amateur sporting³, the United States passed the Professional and Amateur Sports

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¹ NATIONAL GAMBLING IMPACT STUDY COMMISSION FINAL Report at 2-14 [hereinafter, “Final Report”], *available at* <http://govinfo.library.unt.edu/ngisc/reports/2.pdf>.

² See Jack Phillips, *Five Illegal Sports Betting Rings Shut Down in NYC*, THE EPOCH TIMES (June 28, 2010), *available at* <http://www.theepochtimes.com/n2/united-states/five-illegal-sports-betting-rings-shut-down-38218.html>; see also Scott Gordon, *IRS: North Texas Gambling Ring Collected \$1 Billion in One Year*, NBCFDW.COM (June 26, 2012), *available at* <http://www.nbcdfw.com/news/local/IRS-North-Texas-Gambling-Ring-Collected-1-Billion-in-One-Year-160435105.html> (after the passage of PAPSA there has been a rise in illegal sports betting that takes place in the United States; these illegal rings often have connections to organized crime.).

³ S. REP. NO. 102-248, at 4 (1992).

Protection Act (“PAPSA”).⁴ Congress believed that sports wagering would diminish the public confidence in the fairness and authenticity of sporting events.⁵ Congress believed that allowing sports betting to continue would corrupt America’s youth into believing cheating and rigging sporting events was acceptable.⁶

The PAPSA criminalizes betting, gambling, and wagering on professional and amateur sporting events in states that were not exempt prior to PAPSA’s passage.⁷ It states in relevant part:

“[i]t shall be unlawful for...a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity, a lottery, sweepstakes, or other betting, gambling, or wagering scheme, based directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or one or more performances of such athletes in such games.”⁸

Only Nevada, Oregon, Delaware, and Montana allowed legal gambling on professional and amateur sporting events prior to PAPSA’s passage, exempting them from the statute.⁹ The only other options currently available to United States citizens who wish to gamble on sporting events are to gamble illegally online,¹⁰ visit a gambling ring run by organized crime,¹¹ or go to a country where sports betting is legal.¹² Sports betting related criminal activity generates between 80 and 380 billion USD of wagers each year in the United States alone.¹³

⁴ See, e.g., Professional and Amateur Sports Protection Act, 28 U.S.C. §§ 3701 – 3704 (1992) (criminalizing sports wagering in the United States, except for the few states that were exempt by the statute for having a sports betting system in place prior to its passage).

⁵ *Supra* note 3, at 5.

⁶ *Id.*

⁷ 28 U.S.C. § 3702(2) (1992).

⁸ *Id.*

⁹ Thomas L. Skinner III, *The Pendulum Swings: Commerce Clause and Tenth Amendment Challenges to PASPA*, 2 *UNLV GAMING L.J.* 8, 311 (2011).

¹⁰ See Interstate Wire Act of 1961, Pub. L. No. 87-216 (“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 under this title or imprisoned not more than two years, or both.”).

¹¹ See Phillips *supra* note 2; see also Gordon *supra* note 2.

¹² Canada and many European countries have legalized and regulated sports gambling. See Canada Criminal Code, R.S.C. 1985, c. C-46; see also SPORT SELECT, available at <http://sportselect.wcl.com/training/proline.html> (last visited Apr. 6, 2014); PRO LINE, available at <http://proline.olg.ca/prolineEvents.do>; SPORTS INTERACTION, available at <http://www.sportsinteraction.com/> (last visited Apr. 6, 2014); EUROPEAN SPORTS SECURITY ASSOCIATION, available at <http://www.eu-ssa.org/> (last visited Apr. 6, 2014) (In Europe, the European Sports Security Association is a non-profit organization that monitors sports betting. It was “[e]stablished in 2005 by Europe’s premier online sports book operators with a sole mandate to protect and promote integrity in sport, ESSA’s membership now includes all of Europe’s leading private sector bookmakers, representing tens of thousands of individual bets – offline as well as online – each week.”).

¹³ See Final Report, *supra* note 1.

Unlike the United States, Canada allows legalized sports betting.¹⁴ The Canadian Criminal Code only restricts Canadian citizens from placing wagers on single sporting events.¹⁵ Beyond that constraint, Canadian provinces have the ability to control and regulate the sports betting laws governing its citizens.¹⁶ Provinces acted upon this legislation and continue to implement lottery systems and gambling websites for sports betting.¹⁷ Canada's approach has bolstered its provinces' economies through more taxable revenue while creating more jobs for their citizens in an evolving business.¹⁸

This note compares Canada's current sports gambling laws with those of the United States and proposes that the United States overturn the Professional and Amateur Sports Protection Act and go all in on sports betting. Section II provides background information on PAPSA's legislative purpose and the Federal Wire Act, discussing criticisms of both Acts. This section also examines the Canadian Criminal Code, which governs sports betting in Canada. Section III evaluates the current sports betting issue in New Jersey. Section IV outlines the benefits from Canadian gambling laws and attempts to predict how a similar system can benefit the United States. Section V addresses sports betting's negative impacts and discusses potential modifications to the Canadian system that could yield a more beneficial outcome. Section VI offers a way that the United States could initiate a workable system of sports betting that benefits the states while maintaining the integrity of professional and amateur sports.

II. The Sports Betting Laws

A. Gambling in the United States

In the United States, there are two statutes that prevent legalized sports betting: PAPSA¹⁹ makes it illegal for United States citizens to place wagers on sporting events in general, while the Federal Wire Act makes it illegal for citizens to place wagers on sporting events via the internet.²⁰

i. The Professional and Amateur Sports Protection Act

After facing pressure from professional sports leagues, Congress enacted PAPSA.²¹ In doing so, it hoped PAPSA would "stop the spread of State-sponsored sports gambling and maintain the integrity of

¹⁴ See Canada Criminal Code, R.S.C. 1985, c. C-46. ("Notwithstanding any of the provisions of this Part relating to gaming and betting, it is lawful...for the government of a province, either alone or in conjunction with the government of another province, to conduct and manage a lottery scheme in that province, or in that and the other province, in accordance with any law enacted by the legislature of that province...").

¹⁵ Canada Criminal Code, R.S.C. 1985, c. C-46 (A "'lottery scheme' means a game or any proposal, scheme, plan, means, device, contrivance or operation described in any paragraphs 206(1)(a) to (g), whether or not it involves betting, pooling, selling or pool system of betting other than...bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel system, or any race or fight, or on a single sport event or athletic contest...").

¹⁶ See, e.g., Canada Criminal Code, R.S.C. 1985, c. C-46.

¹⁷ Some of the provinces in Canada that have successfully initiated a sport betting lottery system and online website include Ontario, British Columbia, and Quebec. See SPORT SELECT *supra* note 12; see also PRO LINE *supra* note 12; SPORTS INTERACTION *supra* note 12 (Canada has been able to use the internet to successfully maximize its return on sports betting).

¹⁸ See *Canadian Gambling Association Acknowledges Major Milestone to Allow Single-Event Sports Wagering in Canada*, CANADIAN GAMING ASSOCIATION (Mar. 2, 2012), available at <http://www.canadiangaming.ca/news-articles/104-canadian-gaming-association-acknowledges-major-milestone-to-allow-single-sevent-sports-wagering-in-canada.html>.

¹⁹ 28 U.S.C. §§ 3701 – 3704.

²⁰ Interstate Wire Act of 1961, 18 U.S.C. § 1084 (2006).

our national pastime.”²² PAPSA’s passage makes it unlawful for a “government entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or...” for “a person to sponsor, operate, advertise, or promote...other betting, gambling, or wagering scheme...” based on games in which a professional or amateur athlete participates.²³

A person guilty of illegally placing wagers on sporting events may be subject to a civil action.²⁴ An action can be brought against a violator, either by the “Attorney General of the United States, or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of such violation.”²⁵ The violator may be enjoined in federal court.²⁶

Passing the PAPSA did not ban all states from allowing sports gambling.²⁷ Under this Act, any state or other governmental entity with a “betting, gambling or wagering scheme in operation...at any time during the period beginning January 1, 1976 and ending August 31, 1990” was allowed to continue operating.²⁸ The Act also exempts schemes, which were authorized by statute prior to October 2, 1991, or ones that were in casinos located in municipalities.²⁹

Oregon, Delaware, Montana and Nevada are the only four states exempt from PAPSA.³⁰ Since the Act’s passage, each of these states has had the power to allow its citizens to place legal wagers on professional and amateur sporting events.³¹ Prior to 2007, the Oregon Lottery allowed citizens to wager on the outcome of football games and quarters through a system called Sports Action.³² This system required a player to bet on a minimum of four teams.³³ Legislation introduced during an Oregon Legislative Session in 2005 sought to prevent the state from running lottery games based on the outcome of sports.³⁴ In passing the legislation, Oregon reserved the right for future legislative assemblymen to ask the lottery to resume offering Sports Action in the future as a source of revenue.³⁵

²¹ Thomas J. Ostertag, *From Shoeless Joe to Charley Hustle: Major League Baseball’s Continuing Crusade Against Sports Gambling*, 2 SETON HALL J. SPORTS L. 19, 20–21 (1992)(Many sports leagues appeared before congress to voice their concerns regarding “legalized state-sanctioned sports betting.”).

²² S. REP. NO. 102-248, at 4 (1991).

²³ 28 U.S.C. § 3702.

²⁴ 28 U.S.C. § 3703

²⁵ 28 U.S.C. § 3703.

²⁶ *Id.*

²⁷ 28 U.S.C. § 3704 (a)(1); 28 U.S.C. § 3703.

²⁸ 28 U.S.C. § 3704 (a)(1).

²⁹ 28 U.S.C. § 3704.

³⁰ *Sports Betting*, AMERICAN GAMING ASSOCIATION, [http:// www.americangaming.org/government-affairs/key-issues/past-issues/sports-betting](http://www.americangaming.org/government-affairs/key-issues/past-issues/sports-betting).

³¹ *Skinner III*, *supra* note 9, at 311.

³² OREGON LOTTERY, *available at* <http://www.oregonlottery.org/About/Lottery101/History.aspx> (last visited Apr. 6, 2014).

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* (It is believed that Oregon removed its sports betting system so that the NCAA would end their “freeze out.”); see Carla Hanson, *Oregon Sports Action Laid to Rest*, BLUE OREGON (Feb. 9, 2007), *available at* http://www.blueoregon.com/2007/02/oregon_sports_a/.

Starting in 2009, Delaware began to allow its citizens to once again wager on National Football League (“NFL”) games.³⁶ Delaware wished to expand its sports betting options beyond the NFL, but the Third Circuit Court of Appeals denied the request.³⁷ These lotteries are available through local agents.³⁸ The Delaware State Lottery Office contracts agents and regulates the lottery system.³⁹

Unlike the other states, Montana did not legalize a sports lottery system.⁴⁰ Instead, Montana law authorizes sports pools and sports tab games that meet the statute’s requirements.⁴¹ Despite not offering a traditional lottery system, Montana offers its citizens the opportunity to bet on Fantasy Football⁴² and Fantasy Racing Lottery.⁴³ Nevada is the only state to offer a fully operational sports book, which allows its citizens to place legal wagers on all sporting events in every league without restriction.⁴⁴

ii. *The Federal Wire Act*

The Interstate Wire Act of 1961⁴⁵ was passed during the Kennedy Administration in an attempt to combat organized crime.⁴⁶ The act made it illegal for any person to engage in betting or wagering using a wired communication such as a telephone.⁴⁷ The act reads 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 under this title or imprisoned not more than two years, or both.⁴⁸

³⁶ *State of the States*, AGA SURVEY OF CASINO ENTERTAINMENT at 33 (2012), available at http://www.americangaming.org/sites/default/files/uploads/docs/sos/aga_sos_2012_web.pdf.

³⁷ *Office of the Comm’r of Baseball v. Markell*, 579 F.3d 293, 304 (3d Cir. Del. 2009) (ruling that Delaware’s sports betting system must be the same in 2009 as it was in 1976 when it was first enacted).

³⁸ *Sports Lottery Rules & Regulations*, DELAWARE STATE LOTTERY OFFICE, SPORTS LOTTERY RULES & REGULATIONS at 23 (June 2009, amended September 11, 2012), available at <http://www.delottery.com/games/sports/pdfs/SportsLotteryRules%20Regulations09111.pdf>.

³⁹ *Id.*

⁴⁰ See Mont. Code Ann. § 23-4-301 (containing Montana’s rules on parimutuel betting).

⁴¹ See Mont. Code Ann. § 23-5-502 (containing Montana’s rules on sports pools and sports tab games).

⁴² *Fantasy Football*, MONT. LOTTERY, available at <http://montanalottery.com/FantasyFootball> (last visited Apr. 6, 2014). (“There are two ways to play: by completing a play slip and giving it to the retailer, or by using a self-service MP terminal.” After you build a team, choose an amount to wager—\$5, \$10, \$20, \$50, or \$100. The amount you wager will determine the number of shares of prize money you will receive if you win.)

⁴³ *Fantasy Racing*, MONT. LOTTERY, available at <http://montanalottery.com/FantasyRacing> (last visited Apr. 6, 2014) (“On a play slip or using a self-service MP terminal at your Montana Sports Action retail location, select five eligible drivers from a list of professional stock car drivers to create a “team.” Select a wager amount of \$5, \$10, \$20, \$50, or \$100 which will determine your shares....How much you win is determined by your team’s points and your share(s) (\$5 per share). By law, 74% of the sales are to be paid in prizes.”).

⁴⁴ AGA Survey, *supra* note 33.

⁴⁵ 18 U.S.C. § 1084.

⁴⁶ J. Daniel Wash, *Gaming Law, DOJ’s Reversal on the Wire Act – What it Means for Internet Gaming*, GREENBERG TRAURIG (Dec. 2011).

⁴⁷ 18 U.S.C. § 1084(a).

⁴⁸ *Id.*

Recently, there has been much debate as to whether or not the Act applied to just telephonic communications or if it included the use of the internet.⁴⁹

In 2011, the Department of Justice (“DOJ”) made an important statement regarding the interpretation of this anti-gambling statute in a legal memorandum.⁵⁰ The DOJ concluded that interstate transmissions of wire communications that do not relate to a “sporting event or contest,” pursuant to 18 U.S.C. § 1084(a), “fall outside of the reach of the Wire Act.”⁵¹ States are now permitted to legalize internet gambling without federal government interference.⁵² Though this memorandum provided greater state control over gambling, it also made clear that the Interstate Wire Act disallows betting on sporting events and races.⁵³ Under a new administration, there is no telling how the DOJ will interpret sports betting laws.

B. Gambling in Canada

Currently, under the Canadian Criminal Code, it is illegal for a citizen of any province to engage in single game sports betting.⁵⁴ Nevertheless, the Criminal Code does not prohibit Canadian citizens from placing wagers in scenarios where he or she is looking to wager money on multiple games at a time.⁵⁵ Provinces can regulate anything beyond a single bet.⁵⁶

Many Canadian provinces permit its citizens to place legal wagers on sporting events through a lottery system.⁵⁷ Some provinces allow for wagers on sporting events through online gambling websites.⁵⁸ There are three different types of wagers that Canadian provinces allow: pro-line,⁵⁹ point spread,⁶⁰ or over/under bet.⁶¹ In each instance, the province determines the maximum amount of events a person can

⁴⁹ See, e.g., Nelson Rose & Rebecca Bolin, *Game On for Internet Gambling: With Federal Approval, States Line Up to Place Their Bets*, 45 CONN. L. REV. 653 [hereinafter, “Game On”].

⁵⁰ *Whether Proposals by Illinois and New York to Use the Internet and out-of-State Transaction Processors to Sell Lottery Tickets to in-State Adults Violate the Wire Act*, 35 OP. O.L.C. 1 (2011) available at <http://www.justice.gov/olc/2011/state-lotteries-opinion.pdf> [hereinafter, “DOJ Memo”].

⁵¹ *Id.*

⁵² *Game On*, *supra* note 49.

⁵³ DOJ Memo, *supra* note 50.

⁵⁴ Canada Criminal Code, R.S.C. 1985, c. C-46.

⁵⁵ *Id.*

⁵⁶ See, e.g., *id.* (criminalizing only sports wagering consisting of a singular bet).

⁵⁷ See, e.g., SPORT SELECT, available at <http://sportselect.wclc.com/training/proline.html> (last visited Apr. 6, 2014); see also PRO LINE, available at <http://proline.olg.ca/prolineEvents.do> (last visited Apr. 6, 2014); SPORTS INTERACTION, available at <http://www.sportsinteraction.com/> (last visited Apr. 6, 2014) (these mediums are used by Canadian provinces to run their sports books both in person and through the internet).

⁵⁸ See, e.g., *id.*

⁵⁹ *Pro-Line*, SPORT SELECT, available at <http://sportselect.wclc.com/training/proline.html> (last visited Apr. 6, 2014) (a point spread bet allows players to make a prediction on the outcome of games).

⁶⁰ POINT SPREAD SPORT SELECT, available at <http://sportselect.wclc.com/training/pointspread.html> (last visited Apr. 6, 2014) (bettors wager against a quoted point spread).

⁶¹ OVER/UNDER, SPORT SELECT, available at <http://sportselect.wclc.com/training/overunder.html> (last visited Apr. 6, 2014) (bettors estimates whether or not the amount of points that will be scored in a game is under or over the amount quoted).

bet on, but it must be on a minimum of two games.⁶² Canadian citizens have also recently pushed to legalize single game sports betting.⁶³

III. Current Litigation over Sports Betting

On December 8, 2011, the New Jersey Legislature amended the New Jersey Constitution to allow gambling “on the results of any professional, college, or amateur sport or athletic event.”⁶⁴ The amendment disallows citizens of any state to place wagers on any college sport or athletic event that takes place in New Jersey or involves a New Jersey team,⁶⁵ but legalizes sports betting in Atlantic City’s casinos and gambling houses and horse racing tracks.⁶⁶

On August 7, 2012, several sports leagues⁶⁷ filed a joint complaint against New Jersey claiming that the amendment violated PAPSA.⁶⁸ New Jersey moved to dismiss the complaint, but “[t]he Leagues assert that the integrity of their games and reputation with their fan base will be injured by implementation of the Sports Wagering Law.”⁶⁹ The sports leagues have urged the court to follow along with the ruling in Office of the Comm’r of Baseball v. Markell and find that the Amendment violates PAPSA.⁷⁰ New Jersey argued that the plaintiffs lack standing because they have failed to show that a minimum amount of harm has been suffered.⁷¹ New Jersey also asserted that PAPSA is unconstitutional because it affords a few states a right that others are not entitled to. Despite New Jersey’s arguments, the district court granted summary judgment on behalf of the Sports Leagues, and the Third Circuit affirmed the ruling, finding that PAPSA was constitutional pursuant to the Commerce Clause, and the anti-commandeering and equal sovereignty doctrines.⁷² A petition for certiorari was filed with the Supreme Court on February 12, 2014.

If the Supreme Court chooses to overturn the ruling of the Third Circuit, thus legalizing sports betting, it would create more revenue for New Jersey and its casinos.⁷³ It is estimated that legalizing sports betting in New Jersey will generate \$1.3 billion USD in revenue yearly.⁷⁴ State Senator Ray

⁶² See Canada Criminal Code, R.S.C. 1985, c. C-46.

⁶³ C290 Now!, available at <http://www.c290now.ca/> (last visited Apr. 6, 2014).

⁶⁴ N.J. Const., art. IV, § VII(2)(D), (F).

⁶⁵ See *id.* at (D) (“[W]agering shall not be permitted on a college sport or athletic event that takes place in New Jersey or on a sport or athletic event in which any New Jersey college team participates regardless of where the event takes place.”).

⁶⁶ *Id.*

⁶⁷ *NCAA v. Christie*, 2012 U.S. Dist. LEXIS 183395 (D.N.J., Feb. 28, 2013) (The National Collegiate Athletic Association, National Basketball Association, National Football League, and the National Hockey League are involved in the suit.).

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ See *id.* at 10 (“Plaintiffs lack standing under PASPA to seek relief respecting any sporting events with which they are not affiliated.”).

⁷² *NCAA v. Christie*, 2012 U.S. Dist. LEXIS 183395; *NCAA v. Governor of N.J.*, 730 F.3d 208 (3d Cir. 2013).

⁷³ Kyle Smith, *Legalize Sports Betting, and Let Gov. Chris Christie Spike the Football*, FORBES (Aug. 23, 2012), available at <http://www.forbes.com/sites/kylesmith/2012/08/23/legalize-sports-betting-and-let-gov-chris-christie-spike-the-football/>.

⁷⁴ *Id.*

Lesniak⁷⁵ proposed a tax rate of 9.25%, which would yield roughly \$120 million USD in taxes each year.⁷⁶ A sports betting system not only creates revenue, but casino executives hope it will draw new clients to nearby establishments.⁷⁷ Every state that implements a system of legalized sports betting would observe many benefits.

IV. Benefits of State Controlled Sports Betting

Legalizing sports betting in the United States and allowing the government to regulate the industry will benefit the country. In Canada, the provinces experience additional revenue, job creation, and a decrease in criminal activity because sport betting is partially legal. If the United States follows suit with Canada, it could also experience the benefits that Canada has derived from their system.

A. Additional Revenue

The United States is consistently looking for ways to drum up new revenue sources to fund new projects. Generally, it accomplishes this goal by cutting spending or raising taxes. A legalized sports betting system provides Canadian provinces an additional way to generate revenue and fund projects. Legalizing such a system in the United States will provide the country with a way to generate additional revenue without cutting spending or increasing taxes.

i. Canada

Each Canadian province has its own entity responsible for running its lottery system. The Ontario Lottery and Gaming Corporation are in control of running Pro Line in Canada's most populated province.⁷⁸ This is Ontario's medium for allowing its citizens to place wagers on sporting events.⁷⁹ In 2012, Ontario's lottery system, including Pro Line, generated \$3.4 billion in economic activity for the province alone.⁸⁰ Of the total money raised in Ontario, \$1.8 billion goes to the province, with a majority going toward "hospitals, health related programs and other provincial priorities."⁸¹ An additional \$1.6 billion goes towards employee payroll, municipalities that host the facilities, commission to lottery retailers and other support for local economies.⁸² The remaining \$65 million goes towards treating problem gambling, sponsoring community events, and charitable donations.⁸³

Even in the least populated Canadian provinces, the amount of revenue generated by legal sports wagering is significant. Manitoba Lotteries offers Sport Select to the citizens of Manitoba.⁸⁴ The

⁷⁵ Senator Raymond Lesniak joined with the Interactive Media Entertainment and Gaming Association and three New Jersey horse racing groups to file a lawsuit in federal court to overturn PAPSA. Rudy Larini, *Legislator Fights Ban on Sports Betting: Lesniak Sees \$100M a Year in Tax Revenue*, THE STAR-LEDGER (Mar. 24, 2009).

⁷⁶ Smith *supra* note 73.

⁷⁷ *New Jersey to Allow Betting this Fall*, ESPN (May 25, 2012), available at http://espn.go.com/espn/story/_/id/7970130/new-jersey-defy-federal-law-move-forward-sports-betting [hereinafter, "ESPN Fall"].

⁷⁸ ONTARIO LOTTERY AND GAMING CORPORATION, available at www.olg.ca.

⁷⁹ *Id.*

⁸⁰ OLG GIVES BACK, available at http://www.olg.ca/about/economic_benefits/index.jsp.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ MANITOBA LOTTERIES, available at www.manitobalotteries.com.

population in Manitoba is about one tenth of the population of Ontario.⁸⁵ In 2011, the Manitoba lottery, including Sports Select, generated over 60 million Canadian dollars (“CAD”) in revenue.⁸⁶ Money raised goes towards education, health, and government programs, as well as community development.⁸⁷

Having access to this additional revenue allows Canadian provinces to relieve some of the burdens on its tax payers. Presently, Edmonton wishes to build a new sports arena to house its hockey team. Edmonton is currently \$100 million short of making this a reality. If Edmonton wishes to go forward with the construction of this arena, it could raise taxes in the area and burden many of its citizens. Sports lotteries have provided alternative solutions to raising capital to see that this project gets done.

Danielle Smith,⁸⁸ leader of the Wildrose⁸⁹ grassroots party in Canada, proposed a lottery dedicated to the Calgary Flames and Edmonton Oilers. Fifty percent of the profits earned from these lotteries would be put toward the construction of a new arena in Edmonton.⁹⁰ Smith estimated that the lottery would generate between “\$5 million and \$10 million annually for Alberta’s hockey teams, which is a steady stream of revenue to help offset arena costs.”⁹¹

A similar plan was initiated between 2001 and 2003 to help Canadian NHL teams compete with the wealthier US teams.⁹² Through this system, a small portion of each bet placed on a Canadian hockey teams would be paid to the team as a licensing fee.⁹³ Over its three year life span, the lottery system raised \$2.8 million for Canadian hockey teams.⁹⁴ Canadian provinces may be able to raise even more revenue for their provinces if single game sport betting is legalized.

With the current push to legalize single game sports betting, it has been suggested that the additional revenue could be used to pay for an arena in Edmonton.⁹⁵ The Canadian Gaming Association estimates that people illegally gamble between 10 and 40 billion each year on single events in Canada.⁹⁶ As a new source of revenue for the country, Canada’s provinces could focus the money on new expenditures. Edmonton would be able to use the profits from single game wagers on a new Edmonton arena without burdening its citizens.

⁸⁵ ENCYCLOPEDIA BRITANNICA, ONTARIO, *available at* <http://www.britannica.com/EBchecked/topic/429340/Ontario> (As of 2011, Ontario’s population is 12,851,821); ENCYCLOPEDIA BRITANNICA, MANITOBA, *available at* <http://www.britannica.com/EBchecked/topic/362369/Manitoba> (As of 2011, Manitoba’s population is 1,208,268).

⁸⁶ *Rising to the Top, 2011-2012 Annual Report*, MANITOBA LOTTERY (2012).

⁸⁷ *Id.*

⁸⁸ Danielle Smith, *available at* www.daniellesmith.ca (last visited Apr. 6, 2014) (Danielle Smith was elected as the Leader of the Wildrose in 2009).

⁸⁹ WILDROSE, *available at* www.wildrose.ca (last visited Apr. 6, 2014).

⁹⁰ David Staples, *New Source of Gaming Revenue Could Fund Edmonton Arena*, EDMONTON JOURNAL, (May 8, 2012, 4:05 PM), *available at* <http://blogs.edmontonjournal.com/2012/05/08/new-source-of-gaming-revenue-could-fund-edmonton-arena/>.

⁹¹ Danielle Smith, Speech in the House (Oct. 30, 2012), *available at* <http://www.wildrose.ca/leader/danielle-in-the-house-october-30/>.

⁹² *Relief in Sight, Canada Considers Lottery Fees to Aid NHL Clubs*, CNN SPORTS ILLUSTRATED (Dec. 6, 1999, 12:50 AM), *available at* http://sportsillustrated.cnn.com/hockey/nhl/news/1999/12/05/canada_lotteries_ap/.

⁹³ *Id.*

⁹⁴ Staples, *supra* note 90.

⁹⁵ *Id.*

⁹⁶ *Canadian Gambling Association supra* note 18; *Two Thirds of Canadians Support Senate Passage of C-290*, CANADA NEWSWIRE, *available at* <http://www.newswire.ca/en/story/1087845/two-thirds-of-canadians-support-senate-passage-of-c-290> (last visited Apr. 6, 2014).

ii. The United States

Allowing sports betting in the United States would allow the country to profit off of an already thriving industry. Legalized sports betting will give the economy a robust revenue stream. Sports books in Nevada have been benefiting for years.⁹⁷ In 2011, more than \$2.8 billion USD were wagered legally on sporting events in Nevada, surpassing all previous records.⁹⁸ These wagers resulted in Nevada's sports book earning \$140.7 million USD in revenue.⁹⁹ The amount of revenue that was generated was approximately five percent of all wagers placed.¹⁰⁰

Currently, it is estimated that between 80 and 380 billion USD are illegally gambled in the United States each year.¹⁰¹ If this money is wagered legally, it would create a new market that could be regulated, taxed, and profited on. Following similar regulations in Nevada, the government could earn revenue at a rate of five percent of yearly wagers placed. If estimated illegal sports wagers turn out to be on the lower end, the government could generate revenue as low as four billion USD annually.¹⁰² However, if the estimated amount of illegal wagers is towards the higher end of the scale, the government could see as much as 19 billion USD in additional revenue annually.

This revenue could then go toward funding more important ventures similar to the intent of the recently passed marijuana legislation in Colorado.¹⁰³ Although not all support the sale and use of marijuana, Colorado found a way to make its sale benefit the community.¹⁰⁴ By legalizing marijuana, Colorado has proposed to use the revenue earned by taxes to fund public schools.¹⁰⁵ If the United States Congress decides to overturn PAPSA, it could act similarly to Colorado and gather more support of its citizens by using the profits to fund public schools, improve communities, or decrease the deficit.

B. Employment

Expanding this industry will inevitably result in a demand for workers. New Jersey Senator Raymond Lesniak believes that allowing sports betting in Atlantic City will create thousands of jobs for people in the area.¹⁰⁶ These jobs will not just be in the sports betting industry.¹⁰⁷ Legalizing sports betting in Atlantic City could attract a new clientele to the area. An increased clientele will result in more customers for local businesses, who in turn will experienced increase revenue that they can spend to create more jobs.

Local business in states that attract tourists through its casinos can experience similar benefits to those that New Jersey anticipates. States that are not known for their casinos will also be able to

⁹⁷ PAPSA exempts Nevada because a sports betting system existed prior to its passage.

⁹⁸ *State of States, The AGA Survey of Casino Entertainment*, AMERICAN GAMING ASSOCIATION at 33 (2012) [hereinafter, "State of States"].

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Final Report, *supra* note 1.

¹⁰² Based on calculations using statistics from Final Report *supra* note 1 and State of the States *supra* note 87.

¹⁰³ Col. Amen. 64.

¹⁰⁴ Christy Dimond, *Marijuana Tax: Will it go to Schools*, KKCO 11 NEWS, available at <http://www.nbc11news.com/home/headlines/Marijuana-tax-will-it-go-to-schools-178245041.html> (Updated Nov. 9, 2012 at 11:11 PM).

¹⁰⁵ *Id.*

¹⁰⁶ *Lesniak-Van Drew Bill to Implement Sports Wagering Signed Into Law*, NEW JERSEY SENATE DEMOCRATS, available at <http://www.njsendems.com/release.asp?rid=4306> (Jan. 18, 2012).

¹⁰⁷ See ESPN Fall, *supra* note 77 (legalizing sports betting will reinvigorate the area surround Atlantic City hotels).

experience an increase in employment. Initiating a sports betting system will require employing people of all backgrounds. Employees will be necessary to manage the sports books. Vendors will be required to offer these lotteries to the public. Allowing sports betting through websites will create a greater demand for employment. Graphic designers will be necessary to create websites and computer programmers will be needed to create an efficient and secure program. People will be needed to take wagers, monitor the website, and act as telephone operators if a customer experiences a problem. Lawyers will also be required to interpret these newly established laws, and accountants will be needed to oversee the finances involved. The amount of jobs that can be created depends on the type of sports betting that the United States chooses to legalize. Joe Comartin¹⁰⁸ believes that if Canada legalizes single game sports betting, it will “result in thousands of jobs.”¹⁰⁹

C. Decrease in Crime

Although PAPSA’s aim was putting an end to sports gambling,¹¹⁰ it created a vast underground sports betting market,¹¹¹ which has more recently expanded to the internet.¹¹² Americans’ inability to place legal sports wagers has led to a rise in illegal sports betting activity.¹¹³

In 1996, President Bill Clinton established the National Gambling Impact Study Commission (“NGISC”).¹¹⁴ The commission is responsible for conducting legal and factual studies regarding the social and economic impacts of gambling in the United States.¹¹⁵ The NGISC has estimated that the value of illegal sports wagers is close to \$380 billion USD annually.¹¹⁶ In 2011, Nevada accounted for \$2.88 billion USD in sports wagers.¹¹⁷ Even though Nevada is the largest gambling hub within the United States, the NGISC shows that Nevada accounts for less than one percent of yearly sports wagers.¹¹⁸ Organized crime and other underground markets mostly control the remainder of these wagers.¹¹⁹

Illegal sports betting rings are alive and thriving throughout the United States.¹²⁰ In 2010, New York saw five sports betting rings with close connections to the Gambino and Genovese crime families close down.¹²¹ In some instances, the gambling rings accepted wagers via website, phone call, or text message.¹²² These gambling rings generated roughly \$20 USD a year in illegal wagers.¹²³

¹⁰⁸ JOE COMARTIN, *available at* <http://www.joecomartin.ca/> (Joe Comartin is a member of the Canadian Parliament for Windsor – Tecumseh. He is a supporter of legalizing single game sports betting in Canada.).

¹⁰⁹ Staples *supra* note 90.

¹¹⁰ *See, e.g.*, 26 U.S.C. § 3701 (1992).

¹¹¹ *See, e.g.*, AMERICAN GAMING ASSOCIATION *supra* note 14.

¹¹² *See* Scott Gordon, *IRS: North Texas Gambling Ring Collected \$1 Billion in One Year*, NBCFDW.COM (June 26, 2012), *available at* <http://www.nbcfdw.com/news/local/IRS-North-Texas-Gambling-Ring-Collected-1-Billion-in-One-Year-160435105.html>.

¹¹³ *See, e.g.*, 28 U.S.C. §§ 3701 - 3704.

¹¹⁴ NATIONAL GAMBLING IMPACT STUDY COMMISSION ACT, PL 104-169, August 3, 1996, 110 Stat 1482.

¹¹⁵ *Id.*

¹¹⁶ AMERICAN GAMING ASSOCIATION *supra* note 14.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *See* Phillips *supra* note 2; *see also* Gordon *supra* note 2.

¹²⁰ *See, e.g., id.*

¹²¹ *See* Phillips *supra* note 2.

¹²² *See id.*

¹²³ *See id.*

The profits from these gambling rings are well worth the risks of criminal penalty.¹²⁴ In some cases, organized crime families use the ill begotten money to fund other illegal activities such as loan sharking and extortion.¹²⁵ Criminalizing sports betting has not led to a decrease in betting; instead, it has actually led to a rise in overall crime.¹²⁶ Returning sports betting back to the states will help cut back on this increase in crime. Legalizing sports betting will allow the United States to regulate and monitor sports wagers. Organized crime will no longer be in control of or the beneficiary of the sports betting market. Preserving the integrity of sporting events is important, but it is not worth the criminal activity that has occurred in the wake of PAPSA's passage.

In June 2012, the IRS broke up a Texas gambling ring that took illegal sports wagers. The ring consisted of 22 co-conspirators that had been conducting their business for nearly ten years.¹²⁷ These conspirators ran their illegal business by taking wagers through an offshore website, as well as a toll-free number.¹²⁸ In 2010 alone, this sports gambling ring managed to take in over one billion USD in illegal wagers.¹²⁹ Each conspirator earned more than \$50 million USD.¹³⁰ This amount is more than one third of what the entire state of Nevada recorded the following year.¹³¹

Notwithstanding the billions of dollars that these gambling rings have secured through illegal sports wagers, there are still billions of dollars unaccounted for.¹³² Illegal sports wagers being placed each year are benefiting other illegal gambling rings both on and off shore.¹³³ Absent proper control of sports betting, gambling rings will continue to thrive. Allowing states to regulate sports gambling activity would substantially cut down the amount of illegal wagers placed each year because bettors would have a safer alternative. Absent this alternative, people will continue to fund criminal activity by placing wagers the only way they can: through criminally run gambling rings.

Politicians, the NBA, MLB, NFL, NHL, and NCAA are concerned with maintaining the integrity of professional and amateur sports games. PAPSA was created and is enforced with the hope of ending corrupt sports betting practices.¹³⁴ Nevertheless, these organizations overlooked the reality that people are going to continue to place wagers on sporting events¹³⁵ and opened the door for a much more dangerous, illicit activity. Now, sports betting's illegalization has increased criminal activity and provided organized crime with new ways to secure money to further other criminal conduct.¹³⁶ By following suit with many

¹²⁴ See, e.g., *id.*

¹²⁵ See *id.* (New York City Police Commissioner Ray Kelly stated that “[i]llegal gambling profits are the fuel that helps to keep a host of criminal activities running.”).

¹²⁶ See *id.* (Crime families have been able to successfully use illegal sports betting to fund other criminalized activities that they generally would not be able to afford.).

¹²⁷ Gordon *supra* note 2.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Final Report *supra* note 1.

¹³² Based on calculations conducted using statistics from Final Report *supra* note 1.

¹³³ Final Report *supra* note 1.

¹³⁴ See Gary Payne, *Sports Betting Already Happens; Government Might as Well Regulate it*, U.S. NEWS (June 15, 2012), available at <http://www.usenews.com/debate-club/should-sports-betting-be-legal/sports-betting-already-happens-government-might-as-well-regulate-it>.

¹³⁵ See, e.g., Michael Rosenberg, *Newsflash: there's gambling in sports; time to regulate it, not ban it*, SI.COM, available at http://sportsillustrated.cnn.com/2012/writers/michael_rosenberg/08/14/gambling/index.html (last updated August 14, 2012, 5:52 PM)(“[I]llegal sports betting happens everywhere, all the time.”).

¹³⁶ Phillips *supra* note 2.

Canadian provinces and legalizing sports betting, the United States can cut down on gambling related crime,¹³⁷ while also gaining a needed economic boost.¹³⁸

V. The Downside to Legalized Sports Betting

Admittedly, legalizing sports betting does come with some negative results. Many people within professional and amateur sports organizations feel that a legalized betting system within the United States will cast doubt upon the integrity of sporting events.¹³⁹ Complaints have been voiced about Canada's legalized gambling system because the government has failed to provide adequate resources for fighting gambling addiction.¹⁴⁰ If the United States legalizes sports betting, it can work to avoid the problems that Canada has encountered.

A. Effect on the Sports Industry - Integrity of the Game

Some expect a legalized system of sports betting to cast doubt on the integrity of sporting competitions.¹⁴¹ It is believed that if a player, coach, or referee has the ability to place bets they could ultimately control the game's outcome.¹⁴² At the time of PAPSA's passage, Senator Bill Bradley stated:

“Based on what I know about the dangers of sports betting, I am not prepared to risk the values that sports instill in youth just to add a few more dollars to state coffers....State-sanctioned sports betting conveys the message that sports are more about money than personal achievement and sportsmanship. In these days of scandal and disillusionment, it is important that our youngsters not receive this message...sports betting threatens the integrity of and public confidence in professional and amateur team sports, converting sports from wholesome athletic entertainment into a vehicle for gambling...sports gambling raises people's suspicions about point-shaving and game-fixing...All of this puts undue pressure on players, coaches, and officials.”¹⁴³

To this day, sports organizations stand strongly behind PAPSA as they feel it preserves the integrity of the game.¹⁴⁴ Recently, New Jersey Governor Chris Christie has led a strong push to legalize

¹³⁷ Final Report *supra* note 1 (an estimated \$380billion USD in illegal gambling activity occurring in the United States that could be substantially cut down if the United States were to adopt gambling provisions similar to that of Canadian Provinces); *see also* Phillips *supra* note 2; Gordon *supra* note 2.

¹³⁸ *See, e.g., Canadian Gambling Association supra* note 18.

¹³⁹ S. REP. NO. 102-248, at 4 (1991).

¹⁴⁰ Curtis Stock, *Government Addicted to Gambling Profits: Albertans Bet More, Lose More, but Spend Little to Treat Problem Gamblers*, EDMONTON JOURNAL, Feb. 19, 2007.

¹⁴¹ *See Payne supra* note 134 (“Today the NFL, NCAA, and other sports organizations oppose sports betting, arguing that they are protecting the sports they represent by reducing the chance of a fixed game.”); *see also* Les Bernal, *Sports Betting Erodes the Integrity of Sports*, U.S. NEWS (June 15, 2012), *available at* <http://www.usnews.com/debate-club/should-sports-betting-be-legal/sports-betting-erodes-integrity-of-sports> (“[T]oday, some government officials are considering partnering with gambling operators in what is a far greater threat to the integrity of sports than performance-enhancing drugs: legalized sports betting.”).

¹⁴² *See, e.g., Jeff Merron, Biggest Sports Gambling Scandals*, ESPN PAGE 2 (Feb. 7, 2006), *available at* <http://sports.espn.go.com/espn/page2/story?page=merron/060207>.

¹⁴³ Committee Reports, 107th Congress (2001 – 2002) Senate Report 107-016 citing NGISC “Final Report,” p. 3-9, statement of Senator Bill Bradley submitted with the testimony of Nancy Price to the NGISC on November 10, 1998.

¹⁴⁴ *See Pro Leagues, NCAA Poised to Sue N.J. Over Sports Betting*, USA TODAY (Dec. 22, 2012, 3:33 PM) *available at* <http://www.usatoday.com/story/sports/2012/12/22/nba-nhl-nfl-mlb-ncaa-sue-nj-sports-betting/1786469/>

sports betting in the state.¹⁴⁵ After Christie vowed to defy the federal ban on sports wagering, “[f]our major professional sports leagues and the NCAA” were “poised to move forward with their legal fight over New Jersey’s plans to allow sports gambling.”¹⁴⁶ Regardless of the hopes of sport industries, the PAPSA does not prevent just those involved in the organizations from gambling, but all citizens of the United States, with the exception of four states.¹⁴⁷ PAPSA’s passage does not prevent millions of U.S. citizens and some involved in the sports industries to continue to place illegal wagers on sporting events.¹⁴⁸

Though illegal, some athletes, coaches, general managers, or referees can still partake in sports betting. In 2007, the FBI investigated NBA referee Tim Donaghy for placing bets on several games that he refereed.¹⁴⁹ During these games, Donaghy made suspect calls aimed at helping him cover the point spread.¹⁵⁰ In 1996, two Boston College football players were accused of violating NCAA policy after they placed bets against their own team.¹⁵¹ During the 1994-95 season, four Northwestern Basketball players were charged with fixing games by intentionally point shaving.¹⁵² In 2006, Rick Tocchet, a former NHL player and assistant head coach of the Phoenix Coyotes, was charged with financing and running an illegal gambling ring out of New Jersey.¹⁵³ In 2007, Tocchet pled guilty to charges of conspiracy to promote gambling and promoting gambling.¹⁵⁴

Despite the government’s attempt to limit betting by athletes,¹⁵⁵ scandals like these continue to affect the integrity of the game.¹⁵⁶ The sporting industries are not affected by citizens with no relation to the organization placing wagers on the outcome of certain games. If these industries are concerned with

[hereinafter, “Pro Leagues”]; *see also* Pro Teams, NCAA Sue to Stop Single-Game Sports Betting in Del. Office of the Baseball Comm’r v. Markell, Andrews Delaware Corp. Litigation Reporter (Aug. 24, 2009).

¹⁴⁵ Pro Leagues *supra* note 144.

¹⁴⁶ *Id.*

¹⁴⁷ *See, e.g.*, 28 U.S.C. §§ 3702 – 3704.

¹⁴⁸ *See* Phillips *supra* note 2; *see also* Gordon *supra* note 2.

¹⁴⁹ Robin Shulman & William Branigin, *Donaghy Pleads Guilty in Scandal*, WASHINGTON POST (August 16, 2007), available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/08/15/AR2007081500300.html> (Donaghy served nearly thirteen months in prison after pleading guilty to gambling and wire-fraud charges.); Scott Soshnick, *Former NBA Referee Donaghy Told to Leave Betting Radio*, BLOOMBERG BUSINESSWEEK (August 2, 2012), available at <http://www.businessweek.com/news/2012-08-02/former-nba-referee-donaghy-told-to-leave-betting-radio>.

¹⁵⁰ Shulman *supra* note 149.

¹⁵¹ Malcolm Moran, *Boston College Bans 13 Football Players Over Bets*, New York Times (Nov. 7, 1996), available at <http://www.nytimes.com/1996/11/07/sports/boston-college-bans-13-football-players-over-bets.html>.

¹⁵² *A Stain on the Game, Another Point-Shaving Scandal Rocks College Basketball*, CNN SPORTS Illustrated (Mar. 27, 1998, 9:07 AM), available at http://sportsillustrated.cnn.com/basketball/college/news/1998/03/27/gambling_latest/.

¹⁵³ *Tocchet Pleads Guilty, May Avoid Jail Time*, ESPN (May 25, 2007, 11:57 PM), available at

<http://sports.espn.go.com/nhl/news/story?id=2882460> (Tocchet spent 22 years in the NHL, playing for six different teams before becoming an assistant coach.).

¹⁵⁴ *Id.*

¹⁵⁵ 28 U.S.C. §§ 3702- 3704.

¹⁵⁶ *See* Shulman *supra* note 148 (referee Tim Donaghy placed wagers on sporting events and attempted to rig the games despite sports betting being criminalized in the United States); *see also* Moran *supra* note 151 (Boston College Football players intentionally bet against their own team); *Stain on the Game supra* note 152 (NCAA players tarnished the integrity of the game by placing illegal wagers and attempting to shave points off the score to cover a bet).

maintaining the integrity of the games, the league commissioners can invoke stricter policies to regulate the players, officials, and team staff to prevent them from engaging in these scandals.¹⁵⁷ After all, this was the purpose of league commissioners.¹⁵⁸

In 1920, the MLB appointed a Commissioner in response to the Chicago Black Sox gambling scandal.¹⁵⁹ As a part of the Commissioner's duties, he was given the power to "impose punishment and pursue legal remedies for any conduct that he determined to be detrimental to the best interest of the game."¹⁶⁰ At the time, the agreement gave the Commissioner the power to investigate alleged or suspected complaints that were detrimental to baseball's interest and could take necessary action to preserve the game's integrity.¹⁶¹

Players who have agreed to the current MLB collective bargaining agreement have also agreed to abide by the Major League Constitution.¹⁶² Under the Major League Constitution, any players who "[o]ffer, agree, conspire or attempt to lose any game participated in by the Club; or fail to suspend immediately any player, employee or officer who shall be proved guilty of offering, agreeing, conspiring or attempting to lose any such game or of being interested in any pool or wager on any game in which a Club participates" shall be investigated.¹⁶³ If investigated, the player cannot file a grievance against the league.¹⁶⁴ A commissioner has the authority to act on any matter that he or she feels involves the integrity of the national game of baseball.¹⁶⁵ Under the Major League Constitution, the Commissioner must insure that "the ability of, and the public perception that, players and Clubs perform and compete at all times to the best of their abilities. Public confidence shall include without limitation the public perception, as determined by the Commissioner, that there is an appropriate level of long-term competitive balance among clubs."¹⁶⁶

Anti-gambling clauses can also be inserted into league collective bargaining agreements. The most recent NFL collective bargaining agreement contains an "Integrity of Game" clause.¹⁶⁷ In this

¹⁵⁷ See, e.g., Bethany P. Withers, *The Integrity of the Game: Professional Athletes and Domestic Violence*, 1 HARV. J. SPORTS & ENTERTAINMENT LAW 145 (2010).

¹⁵⁸ See Robert I. Lockwood, *The Best Interests of the League: Referee Betting Scandal Brings Commissioner Authority and Collective Bargaining Back to the Frontcourt in the NBA*, 15 SPORTS LAW J. 137, 141 (2008).

¹⁵⁹ *Id.*

¹⁶⁰ Matthew B. Parchman, *Limits on Discretionary Powers of Professional Sports Commissioners: A Historical and Legal Analysis of Issues Raised by the Pete Rose Controversy*, 76 VA. L. REV. 1409, 1415 (1990).

¹⁶¹ *Id.*

¹⁶² MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION, 2012-2016 Basic Agreement CBA.

¹⁶³ MAJOR LEAGUE CONST. Art. VII § 4(d), available at <http://www.bizofbaseball.com/docs/MLConstitutionJune2005Update.pdf>.

¹⁶⁴ MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION, 2012-2016 Basic Agreement CBA (A grievance "shall not mean a complaint which involves action taken with respect to a Player or Players by the Commissioner involving the preservation of the integrity of, or the maintenance of public confidence in, the game of baseball.")

¹⁶⁵ MAJOR LEAGUE CONST. Art. II § 4.

¹⁶⁶ *Id.*

¹⁶⁷ NATIONAL FOOTBALL LEAGUE PLAYERS ASSOCIATION, COLLECTIVE BARGAINING AGREEMENT 261 – 262 (August 4, 2011) (Under the Integrity of Game clause a "[p]layer recognizes the detriment to the League and professional football that would result from impairment of public confidence in the honest and orderly conduct of NFL games or the integrity and good character of NFL players. Player therefore acknowledges his awareness that if he accepts a bribe offer or an attempt to throw or fix an NFL game; bets on an NFL game; knowingly associates with gamblers or gambling activity; uses or provides other players with stimulants or other drugs for the purpose of attempting to enhance on-field performance; or is guilty of any other form of conduct reasonably judged by the

agreement, a player acknowledges “his awareness that if he accepts a bribe or agrees to throw or fix an NFL game; fails to promptly report a bribe offer or an attempt to throw or fix an NFL game; bets on an NFL game; [or] knowingly associates with gamblers or gambling activity,” the Commissioner will have the right to fine him, suspend him, and/or terminate his contract.¹⁶⁸

If sports industries are looking to maintain the integrity of their games, the focus should be placed on the industries rather than the population at large. There are many teams involved in professional sports in the United States but are located in Canada where gambling is legal. Legalized gambling in Canada has not led professional teams such as the Toronto Raptors, the Toronto Blue Jays, or the Montreal Canadiens to violate league policies and engage in point shaving or throwing games.

B. Crime in Canada

Even though Canada has a legalized system for placing wagers on sporting events,¹⁶⁹ gambling related crime continues to occur.¹⁷⁰ It is estimated that somewhere between \$10-\$40 billion CAD are gambled illegally each year in Canada.¹⁷¹ At most, this is ten percent of what the American Gaming Association estimates occurs yearly in the United States.¹⁷² These illegal wagers are the result of Canada disallowing its citizens from engaging in single event sports betting.¹⁷³ Criminalizing single event sports betting has led Canadian citizens to seek illegal means to place single game wagers.¹⁷⁴

In November 2012, three men were arrested for illegally running a gambling ring in Ottawa. The gambling ring conducted its business online and accumulated millions of CAD over a six month period.¹⁷⁵ The illegal website allowed participants to place single game wagers on NFL, NHL, and Olympic events.¹⁷⁶ People involved with the ring were charged with illegal “bookmaking, pool-selling, betting or wagering, committing extortion by threats, accusations, menaces or violence.”¹⁷⁷ Members of this

League Commissioner to be detrimental to the League or professional football, the Commissioner will have the right, but only after giving Player the opportunity for a hearing at which he may be represented by counsel of his choice, to fine Player in a reasonable amount; to suspend Player for a period certain or indefinitely; and/or to terminate this contract.”)

¹⁶⁸ *Id.* (The NFL Commissioner has the ability to conduct an investigation, but he or she may only penalize a player in violation of the collective bargaining agreement after he or she has given the player the opportunity for a hearing.)

¹⁶⁹ See Canada Criminal Code, R.S.C. 1985, c. C-46; see also SPORT SELECT, available at <http://sportselect.wclc.com/training/proline.html> (last visited Apr. 6, 2014); PRO LINE, available at <http://proline.olg.ca/prolineEvents.do>; SPORTS INTERACTION, <http://www.sportsinteraction.com/>.

¹⁷⁰ Staples *supra* note 90.

¹⁷¹ *Id.*

¹⁷² See AMERICAN GAMING ASSOCIATION *supra* note 13.

¹⁷³ Canada Criminal Code, R.S.C. 1985, c. C-46.

¹⁷⁴ See, e.g., CBC News, *3 Accused in Illegal Gambling Ring Out on Bail*, CBC NEWS OTTAWA (Last updated Nov. 12, 2012, 7:21 AM), [hereinafter, “Gambling Ring”], available at

<http://www.cbc.ca/news/canada/ottawa/story/2012/11/11/ottawa-organized-crime-related-charges-released-bail.html>; see also CBC News, *Illegal Gambling Website Busted in Ottawa*, CBC NEWS OTTAWA (Last updated Nov. 10, 2012, 1:02 PM), [hereinafter, “Illegal Gambling”], available at <http://www.cbc.ca/news/canada/ottawa/story/2012/11/09/ottawa-organized-crime-ring-busted-rcmp.html>.

¹⁷⁵ Gambling Ring *supra* note 174; Illegal Gambling *supra* note 174.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

gambling ring were involved with illegal bookmaking in the past, and each has been linked to organized crime.¹⁷⁸

One way of preventing an illegal gambling problem like the one Canada faces is for the United States to legalize single event wagers as well as multi-game wagers. Canada is on the verge of passing legislation to amend the Canadian Criminal Code.¹⁷⁹ Approximately two thirds of Canadians believe that the Senate should pass a bill that would legalize betting on the outcome of a single sporting event.¹⁸⁰ The bill in question has received large support from eight of Canada's provincial governments.¹⁸¹ Each could see large increases in revenue and oversight over sports betting if the bill is passed, while also experiencing less black-market betting.¹⁸²

If passed, proposed Bill C-290 will allow Canadians to place wagers on single-event sporting events.¹⁸³ Previously, Bill C-627 was proposed by Joe Comartin, a member of the Canadian Parliament.¹⁸⁴ During a House of Commons Debate, Comartin proposed this bill stating that “[t]here is a great deal of criminal activity that is going on, both inside and outside the country, where moneys are flowing out and Canadians are betting illegally on those activities.”¹⁸⁵ Regardless of his plea, the bill did not survive the first reading.¹⁸⁶

Comartin also proposed Bill C-290 which has the same goal as C-627.¹⁸⁷ During the 41st Parliament session, Comartin stated that:

“This is a very important bill from this perspective. That industry is very big, and it is entirely controlled by organized crime at the present time, both here and in the United States, because it is generally illegal in the United States to bet on one sporting event.”¹⁸⁸

Voting against passing this bill does not put a stop to single-event sports betting, but instead ensures that it remains “in the shadows, with the money going offshore and to organized crime.”¹⁸⁹ A legalized system of single event sports wagers entrusts in the government the power to regulate these

¹⁷⁸ *Id.*

¹⁷⁹ See *Two Thirds (64%) of Canadians Want Senate to Pass Bill Legalizing Single Event Sports Betting*, CANADIAN GAMING ASSOCIATION (Dec. 12 2012, 12:09 PM); See also *Proposed Bill Would Let Canadians Bet On Single Sports Matches*, CTV NEWS (Nov. 21, 2012, 11:02PM).

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ C-627 An Act to Amend the Criminal Code (Sports Betting).

¹⁸⁵ House of Commons Debate Vol. 145 No. 129 3rd Session 4th Parliament, *available at* <http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Hansard&Doc=129&Parl=40&Ses=3&Language=E&Mode=1>.

¹⁸⁶ Parliament of Canada, C-627, *available at* <http://www.parl.gc.ca/LEGISINFO/BillDetails.aspx?Language=E&Mode=1&billId=4326486>.

¹⁸⁷ 41st Parliament, 1st Session, Edited Hansard, No. 022 (Sep. 28, 2011) *available at* <http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Hansard&Doc=22&Parl=41&Ses=1&Language=E&Mode=1>.

¹⁸⁸ *Id.*

¹⁸⁹ Hon. Bob Runciman, Debates of the Senates (Hansard), 1st Session, 41st Parliament, Vol. 148, Iss. 124 (Nov. 29, 2012) *available at* http://www.parl.gc.ca/Content/Sen/Chamber/411/Debates/124db_2012-11-29-e.htm#32 (“If you vote against this bill, you are not voting to put a stop to single-event sports gambling, but you are voting to ensure it remains in the shadows, with the money going offshore and to organized crime.”).

wagers and capitalize on revenue.¹⁹⁰ This system would hinder organized crime and other groups from capitalizing on sports betting to fund other illegal activities, while allowing the government to spread those profits and create jobs.¹⁹¹

If Canada implements this legislation, the illegal sports betting that takes places in Canada should decrease because its citizens will have a safer alternative. If the United States were to provide its citizens with the ability to wager on single games, gambling related crime would likely decrease further than it would if a system identical to Canada was instated.

C. Gambling Addictions

The provincial Canadian governments have profited from legalized gambling, which brings in roughly \$13 billion CAD in additional revenue annually.¹⁹² Despite the large amounts of revenue the provincial governments' experience, a small percentage of these earnings are put towards combating gambling addictions.¹⁹³ In a Canada West Foundation Study, one in fifteen gamblers are believed to exhibit some signs of a gambling problem.¹⁹⁴

In 2011, British Columbia contributed less than one percent of their \$1.1 billion CAD profit to combating problem gambling.¹⁹⁵ In 2011, Nova Scotia, a much smaller province, earned \$141 million CAD.¹⁹⁶ Nova Scotia contributed 4.7% of its earnings towards addiction research and treatment.¹⁹⁷

If the United States legalizes a system of sports betting, it should try to avoid the mistakes of Canadian provinces. Each state should make researching and treating gambling addiction a focal point of their plans. Plans should detail state spending of gambling revenue and how much will be allotted toward these services. Plan should also detail how addiction services will be communicated to each state's citizens. An increase in focus and spending on treating gambling addiction would not substantially burden the government because sports betting would provide a source of revenue they had not received previously.

VI. Making Sports Betting Work

The United States can make a legalized sport betting industry work, and it should use Canada's current system as a guide. Unlike Canada, if the United States decides to legalize sports betting, it should go all the way and not just legalize certain aspects. In allowing its citizens to place wagers through a lottery system, Canada has been able to raise revenue, but it has not been able to cut down gambling related crime as effectively. Not everyone wishes to place multiple bets at a time, so they have sought illegal means to do so. If the United States is to legalize the sports betting industry, single game sports

¹⁹⁰ C-290

¹⁹¹ 41st Parliament, 1st Session *supra* note 187.

¹⁹² Statistics Canada, The Daily (2010, August 27), *available at* <http://www.statcan.gc.ca/daily-quotidien/100827/dq100827beng.htm>.

¹⁹³ See Derek Miedema, *Government-Gambling's Biggest Addict, Profligate Spending Feeds Government Gambling Addiction*, INSTITUTE OF MARRIAGE AND FAMILY CANADA (March 2012), *available at* <http://www.parl.gc.ca/Content/SEN/Committee/411/lcjc/PDF/Briefs/C290/IMFC-1-EN.pdf>; *see also* Curtis Stock, *Government Addicted to Gambling Profits: Albertans Bet More, Lose More, but Spend Little to Treat Problem Gamblers*, THE EDMONTON J. (Feb. 19, 2007).

¹⁹⁴ Jason J. Azmier, *Gambling in Canada 2005, Statistics and Context*, Canada West Foundation at 11 (June 2005) *available at* <http://cwf.ca/pdf-docs/publications/June2005-Gambling-in-Canada-2005-Statistics-and-Context.pdf>.

¹⁹⁵ Miedema *supra* note 193.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

wagers should be legalized. As Canada is currently realizing, this type of wager will drastically increase the amount of revenue its provinces see yearly.¹⁹⁸ Gambling crimes will decrease at a faster rate than by simply following the system Canadian provinces currently have in place.

In order for legalized betting to work in the United States, the Federal Government should be in charge of setting the basic regulations. This would allow the United States to insure that all states are on a level playing field, as to not make one state's betting system more desirable than another's. If a larger state is offering higher odds than a smaller state, the smaller state may not benefit as much as if the odds were all set at the same amount. Understandably, the United States may not want to establish a group to set the odds. If this is the case, Congress could require that all states abide by the odds set in Las Vegas since its betting system has been in place for several years.¹⁹⁹ The United States may also want to set the maximum and minimum tax rate that can be charged per bet. Setting the tax rate would have a similar effect as setting the odds. If a state can set a lower tax rate, it may be able to lure more bettors than a state that imposes a higher rate.

One of the biggest complaints that Canada has received regarding its legalized betting system is that the provinces only contribute a small portion of their earnings to combating gambling problems.²⁰⁰ To insure that this does not happen in the United States, the federal government could pass regulations that all states must abide by in order to have a legalized system of sports betting. These regulations should include a set rate that all states must contribute towards gambling related recovery programs. In passing such regulations, the federal government would insure that the United States does not make the same mistake as Canada. All other aspects not regulated by the federal government will be reserved to the individual states to decide.

Similar to Canada, the United States should allow placing wagers over the internet. Each state that chooses to offer online gambling services should be responsible for creating and maintaining its own website. Internet gambling will create more jobs and further increase revenue.

Overtaking PAPSA will not cast doubt on sporting events. It is the free choice of athletes that affect how the public views these competitions. Recent performance enhancing drug and point shaving scandals have not affected viewership of sports. Legalizing sports betting should not result in a rise in scandalous games. If Congress is truly concerned with maintaining the integrity of sporting events, it can pass a law that bans point shaving, throwing games, or rigging fights. This would serve PAPSA's purpose without preventing citizens with no vested interest in the game from engaging in sports wagering.

Citizens have been split on the idea of legalizing sports betting. One way to possibly find more support for this plan is to show them where the revenue will be going. Colorado did this when it was attempting to pass legislation regarding the sale of marijuana, and it then received more citizen approval. If a good cause can be linked to sports betting, more citizens may find themselves supporting a bill to legalize it. In doing so the United States will cut down on crime, increase employment, and gain access to billions of dollars in taxable revenue.

¹⁹⁸ C-290.

¹⁹⁹ 28 U.S.C. § 3704 (a)(1).

²⁰⁰ Azmier *supra* note 194.