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Not Undertaking the Almost-Impossible Task: The 1961 Wire Act's Development, Initial Applications, and Ultimate Purpose

David G. Schwartz

FOR A CAMELOT-ERA PIECE OF LEGISLATION, the Wire Act has a long and unintended shadow. Used haltingly in the 1960s, when the Wire Act failed to deliver the death blow to organized crime, 1970's Racketeer-Influenced and Corrupt Organizations Act (RICO) became a far better weapon against the mob. Yet starting in the 1990s, the Wire Act enjoyed a second life, when the Justice Department used to it prosecute operators of online betting Web sites that, headquartered in jurisdictions where such businesses were legal, took bets from American citizens. The legislative history of the Wire Act, however, suggests that it was intended for a much more selective application, and that the use of the Act to penalize those who provide cross-border betting services to Americans, while perhaps faithful to the broad letter of the Act, is a departure from its spirit.

Analyzing the social and political ferment in which the Wire Act and its companion laws were brewed shows that the entire package of ostensibly anti-gambling legislation passed by Congress in the summer of 1961 was actually an anti-organized crime measure that only attacked purveyors of gambling because of their important position in the organized crime chain of command. It was not then intended as a sweeping federal effort to curtail public access to gambling. Further, the fact that the same committee in which the attorney general received his initial education in organized crime proposed, in the following year, an expansion of the Act to cover technologies not specified in the orig-

inal law, suggests that the Wire Act was intended to cover only a limited range of wire facilities—not the broad spectrum of communications technologies, most of which had not yet been invented in 1961, for which later prosecutors dusted it off.

THE WIRE ACT AS PART OF THE KENNEDY WAR ON CRIME

Upon his selection in 1961 as Attorney General by his brother, President John F. Kennedy, Robert F. Kennedy made no secret of his desire to use the power of the Justice Department to first cripple, then destroy, organized crime. As counsel in the McClellan Committee from 1957 to 1960, he had learned that the criminal underworld was a vast and malicious beast that threatened the United States even more than Communist aggression. He'd written a book on the subject, *The Enemy Within*, and had made a famous foe of Teamsters union boss Jimmy Hoffa. As the nation's "top cop," he was committed to defeating this adversary.

To that purpose, he suggested that Congress enact a passel of laws to assist the Justice Department. Among them was Senate Bill 1656, colloquially known as the Wire Act, which appeared to criminalize even the act of talking about betting on sporting events over the phone. But for Kennedy, the Wire Act wasn't really about betting on horses or football. It was instead intended to strike at organized crime. To fight the enemy within, America would have to federalize criminal statutes previously enforced by states. Along the way, this would mean prosecutions of those who shipped gambling devices, traveled to advance their illegal enterprises, and transmitted betting information across state lines. The final provision in this package of laws,

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the Wire Act, was not the centerpiece of the new anti-crime initiative, but one of its supporting measures. It is also important to note that Kennedy never suggested that interstate gambling transmissions themselves were the problem; rather, they were undesirable because they were used by hoodlums.

The keystone of the Kennedy program was the ambitious proposal to prohibit interstate travel that advanced certain illegal business activities. Kennedy promoted this measure as the centerpiece of the anti-crime drive because it would take down “the bankrollers and kingpins of the rackets,” men who had thus far been able to elude prosecution. These men personified Kennedy’s fear of a creeping moral decay within America; though they looked like productive, prosperous citizens, they profited from illegal enterprises. Kennedy often expressed his contempt for men that “live luxurious, apparently respectable lives in one state but return periodically to another state to collect from the rackets they run by remote control.”¹

From the start, the Travel Act wasn’t meant to punish those who the bosses commanded by this remote control. In his testimony before the House Judiciary Committee on May 17, 1961, Kennedy explained that he hardly expected high-ranking racketeers to personally collect the drop after a day’s betting; the kingpins would be prosecuted under aiding and abetting statutes, presuming that those actually charged with the travel-related crime cooperated in the prosecutions of their bosses—not the most realistic expectation.²

In retrospect, particularly in comparison with 1970’s RICO statute, the Kennedy anti-crime program seems to be a clumsy patchwork of past legislative burnouts and grandiose new proposals. Yet he succeeded where others had failed since the turn of the century, in enacting a law banning the interstate transmission of gambling information. Kennedy’s success came not because he provided a better answer to the problem of state vs. national jurisdiction, or better balanced the importance of preserving individual liberty against a possibly authoritarian federal government. Instead, he changed the question. Picking up the banner of the Kefauver conspiracists, steered by an increased public apprehension about organized crime in the wake of Apalachin and the McClellan Committee hearings, he presented Congress with a plan—the only plan—that could defeat the menace of racketeers. As he wrote in his message to Congress of April 6, which accompanied his legislative proposal:

Over the years an ever-increasing portion of our national resources has been diverted into illicit channels. Because many rackets are conducted by highly organized syndicates whose influence extends over State and National borders, the Federal Government should come to the aid of local law enforcement in an effort to stem such activity.³

Stopping gambling was no longer the goal: smashing the interstate rackets was. Local law enforcement, which might or might not be willing to roust the local bookmaker, was not equal to this task. Only a federal strike force could be trusted to it.

Congress received the package of bills and began grinding them through the legislative process *post haste*. The House Judiciary Committee scheduled hearings on the proposals for May, its Senate counterpart for June. Kennedy vociferously advocated for the bills. Before the House, Kennedy delineated the need and benefit for each of the bills separately, but along the way, he consistently pounded home three themes: racketeering was a large and growing danger; racketeering prospered through interstate commerce; and because “the modern criminal has become more sophisticated in the planning and perpetration of his activities,” state and local police needed federal assistance.⁴ The Attorney General, needing both the political support and enforcement cooperation of local police and public officials, did not accuse them of being on the take, but he implied as much when he prefaced his presentation of the bills by declaring that the hoodlums and racketeers he wished to prosecute had “become so rich and powerful that they have outgrown local authorities.”⁵

Kennedy concentrated on bookmaking (dominated by horserace betting and wire transmission of the same) and numbers games, though he also mentioned illegal casinos in Newport and Covington (Kentucky) as a minor related problem (though not in connection with the Wire Act).⁶ He never dis-

¹ *Robert Kennedy Urges New Laws to Fight Rackets*, N.Y. TIMES, Apr. 7, 1961, at 1.

² *Hearings on S.1653, S.1654, S.1655, S.1656, S.1657, S.1658, S.1665 Before the S. Comm. on the Judiciary*, 87th Cong., 1st Sess. at 3 (1961) [hereinafter 1961 *Hearings*].

³ H.R. REP. NO. 87-966, reprinted in 1961 U.S.C.C.A.N., 2666.

⁴ 1961 *Hearings*, 8.

⁵ 1961 *Hearings*, 1.

⁶ 1961 *Hearings*, 5.

cussed poker, since at the time, the idea of playing a poker game remotely would have been risible. Throughout his remarks on the bills covering travel, transmission of wagers, and transmission of betting paraphernalia, Kennedy wove the thread of the interstate wire through the fabric of organized crime. “It is quite evident that modern, organized, commercial gambling operations are so completely intertwined with the Nation’s communications systems that denial of their use to the gambling fraternity would be a mortal blow to their operations,” he said quite plainly, at the climax of his discussion of the Wire Act.⁷

For Kennedy’s purposes, the network of bookmakers using phones and telegraphs to coordinate betting information and layoff wagers represented the ideal crime: by its very nature, the race wire permeated jurisdictional borders and demanded a federal solution. If one took the position that local police were helpless to stop out-of-state bookmakers from wiring betting information into their communities, making a crime of interstate bet transmission was manifestly sensible. But Kennedy and his legislative allies left unsaid a deeper truth, perhaps for fear of embarrassing local authorities: that no bookmaking business can operate in complete secrecy, and that competent local policing could certainly be used to disrupt the pool rooms and handbook makers that disseminated betting information at street level. This unspoken possibility, of course, would have undercut the very foundations of Kennedy’s federal war on organized crime.

From the Attorney General’s office, the war on organized crime was paramount, overriding any semblance of concern for the general public’s access to gambling. Proponents of the bills to ban the interstate transmission of wagering information in the Progressive age had emphasized the deleterious effects of gambling on both the republic and the individual. In a 1916 editorial pleading for Congress to adopt the Sims-Kenyon version of the bill, the *New York Globe* decried the ruinous impact of gambling, which was “sapping American manhood, destroying countless homes, wrecking countless lives,” and ultimately, “playing havoc with the breed of men.”⁸ But Kennedy, though he could offer case piled upon case of the corrupting influence of organized crime, had few cautionary words against gaming *per se*. In fact, if one reads between the lines of his testimony, gaming was not so bad on its own: it was only bad insofar as it fueled organized crime and corruption.

Reflecting the mores of a nation that had rejected gambling prohibition outright and was in the process of being seduced by public interest gaming (the nation’s first legal lottery in nearly a century would be created three years later, and from there, the sky was the limit for state-run numbers games), Kennedy took pains to emphasize that his bill would not target people who gambled for fun, but only those who illicitly profited from the business of gambling. He claimed that the bill would help suppress *organized* gambling, adding that:

The word “organized” is italicized because it should be clear that the Federal Government is not undertaking the almost impossible task of dealing with all the many forms of casual or social wagering which so often may be effected over communications. It is not intended that the act should prevent a social wager between friends by telephone. This legislation can be a most effective weapon in dealing with one of the major factors of organized crime in this country without invading the privacy of the home or outraging the sensibilities of our people in matters of personal inclinations and morals.⁹

American citizens were apparently free to gamble as much as their consciences permitted; this was a matter of “personal inclinations and morals.” Kennedy himself admitted that the public’s hunger for gambling was anything but moderate, claiming that gambling was a \$7 billion business with 70,000 employees nationwide. This wasn’t the problem: those who served that appetite and were guilty of “organized” gambling—and hence organized crime—were.

Testifying before the Senate, Kennedy sounded many of the same themes as he had before the House: hoodlums and racketeers had become rich and powerful, and were a growing menace; only the federal government could effectively combat organized crime; and finally, a point which he seemed to make a bit too fussily, the Justice Department did not “seek to preempt” local law enforcement, but only to help it. Citing the successes, real or imag-

⁷ 1961 Hearings, 6.

⁸ *Improve the Breed of Men*, N.Y. GLOBE, Feb. 24, 1916.

⁹ 1961 Hearings, 6.

ined, that federal law enforcement had gained in fighting narcotics, auto theft, and prostitution (though in fact, incidence of these crimes continued to rise during the 1960s), the Attorney General declared that organized crime was “so well organized and entrenched on a multistate basis” that the local police were powerless to act against it without the aid and assistance of the federal government.¹⁰

For each of the eight bills presented to Judiciary, Kennedy prepared a brief statement of the Justice Department’s intended uses. For S. 1656 (the Wire Act), the Attorney General noted the exceptions already carved out of the bill—the bill was careful not to interfere with print, radio, or television reporting of sports events; wireless communication was entirely exempted on the grounds that the Federal Communications Commission already had sufficient authority to discipline misuse of the airwaves.¹¹

Although he left radio and television out of the new bill, Kennedy insisted on maintaining sanctions against common carriers who provided service used for illegal gambling purposes. Representatives of the telecommunications objected that this provision would force them to police the telephone and telegraph lines. But Kennedy insisted that if they did not intentionally supply or maintain facilities used to disseminate gambling information, they “would not be hampered or burdened by this measure.”¹² The Attorney General suggested that prosecutions would by nature be selective: “the people who will be affected are the bookmakers and layoff men, who need incoming and outgoing wire communications to operate.”¹³ Kennedy did not elucidate how police would prosecute gamblers using wire services while bypassing the technicians and operators who physically maintained the offending wire communications facilities. However, he implied that prosecutors would target only those whom, in their judgment, were the true offenders.

With regard to the untutored mass of “social wagers,” Kennedy openly declared that they had nothing to fear. His language was instructive, as he torturously explained that, in order for the bill to be effective, it would not have any formal exemptions for casual bettors—though, as a matter of course, prosecutors would be instructed to ignore the letter of the law and let social wagers take place without fear of molestation:

Law enforcement is not interested in the casual dissemination of information with respect

to football, baseball, or other sporting events between acquaintances. That is not the purpose of this legislation. However, it would not make sense for Congress to pass this bill and permit the professional gambler to frustrate any prosecution by saying, as one of the largest layoff bettors in the country has said, “I just like to bet. I just make social wagers.” This man, incidentally, makes a profit in excess of a half million dollars a year from layoff betting. Therefore, there is a broad prohibition in the bill against the use of wire communications for gambling purposes.¹⁴

Kennedy continued to justify this position by remarking that, as social bettors and professional ones used the same facilities—the telephone system—to place wagers, there was no statutory distinction between social and professional wagers. In the bill as presented, a professional could not claim to have accepted non-criminal wagers. No matter how friendly the call, both parties were still liable to prosecution, though Kennedy assured the assembled Senators that only professionals would actually face it.¹⁵

Kennedy drew the line—barely—at acknowledging in the statute that gambling for fun was okay. “We did not feel it would be wise to differentiate between the type of wagers being made without implicitly authorizing or condoning the conduct of the nonprofessional.”¹⁶ Though Kennedy pledged that the Justice Department would never bring criminal cases against nonprofessionals, he reasoned that the department “could not in good conscience” use language that “might be construed as condoning gambling.”¹⁷ Gaming would go on, he reasoned, and that was not necessarily a bad thing; but profiting from gaming was unbearable. Kennedy’s statement in favor of the Wire Act ranks as a noteworthy case study of measured ambiguity towards gaming: tolerable as a “friendly” diversion, but intolerable as a professional enterprise.

The debate over S. 1656 was restricted to the question of the degree of liability that the telecom-

¹⁰ *1961 Hearings*, 11.

¹¹ *1961 Hearings*, 12.

¹² *1961 Hearings*, 12.

¹³ *1961 Hearings*, 12.

¹⁴ *1961 Hearings*, 12–13.

¹⁵ *1961 Hearings*, 13.

¹⁶ *1961 Hearings*, 13.

¹⁷ *1961 Hearings*, 13.

munications industry would bear. In the hearings and in the newspapers, no one raised significant opposition against the need to pass a law criminalizing the transmission of gaming information on the grounds that it violated civil liberties or privacy rights. This suggests that everyone in the room was aware that the Act would be used only to fight against organized crime, and not to restrict casual or social American gambling, which even Kennedy admitted was likely unstoppable.

PASSING THE WIRE ACT

After being favorably reported by the Judiciary, on July 28, the full Senate passed S. 1656 along with five other bills that Kennedy had recommended. The only measures that did not pass on that day were the law tightening the firearms restrictions for felons, which had passed earlier, and the enlargement of the Fugitive Felon Act, an amended version of which it approved after the House took action.¹⁸ The Senate acted on the bills that did pass together, approving them by voice vote and with no opposition.¹⁹

In the House of Representatives, the bills faced stiffer opposition. The slot machine measure, the labor racketeering immunity provision, and the anti-obstruction bill all failed to pass, though Robert Kennedy would continue to fight for them and a wiretapping law in the following year. The other measures—the laws against transmitting gaming information, using interstate travel to conduct an illegal enterprise, transporting betting materials across state lines, and also broadening firearms restrictions and the Fugitive Felon Act—passed the House. At that point, the bills had passed the full Congress and headed to the Oval Office for the president's signature or veto.

Since the bills had been proposed by President Kennedy's brother, presidential approval was a foregone conclusion. The president signed the bills into law in an almost anti-climactic ceremony. Kennedy put his signature on S. 1653 (travel), S. 1656 (wire), and S. 1657 (gaming paraphernalia) on Sept. 13, 1961, giving them a brief endorsement:

It is a pleasure to sign these three important bills which we hope will aid the United States Government and the people of this country in the fight against organized crime.

These pieces of legislation are the culmination, in these three areas, of years of effort by the Federal Government and by the Congress to place more effective tools in the hands of local, State, and national police.

It is therefore a pleasure to sign them, and in the presence of the representative of the Justice Department, Mr. Hoover—and Members of the Congress of both parties who have given this legislation strong bipartisan support—most particularly Senator McClellan whose recent hearings indicate great need for this kind of legislation.²⁰

Robert Kennedy tactfully stepped aside to permit J. Edgar Hoover to stand for the Justice Department; after all, his bills were now law, and his prosecutors would be leading the fight against the racketeers. There apparently was glory enough to go around, though perceptive observers might have asked why Hoover, with four decades' experience in fighting interstate crime and no stranger to Congress, had never testified in favor of the bills. Kennedy's singling out McClellan for praise was both a sop to Congress and an indirect attribution to his brother, who had made his public reputation as the driving force behind the McClellan Committee.

Kennedy had his laws, and the Justice Department started using them almost immediately. Within less than a decade, when it became clear that they had failed to make possible the kind of hoodlum head-hunting that Kennedy had originally envisioned, they gave way to RICO, which was far more effective at decapitating, at least temporarily, criminal organizations.

But Congress notably did not consider the Wire Act the last word on interstate gambling transmissions. The McClellan Committee investigated gambling and organized crime in 1962, focusing attention on the race wire and sports gambling. The

¹⁸ C. P. Trussell, *House Votes Bill to Combat Crime*, N.Y. TIMES, Aug. 24, 1961, at 20.

¹⁹ C. P. Trussell, *Six Crime Bills Passed in Senate*, N.Y. TIMES, July 29, 1961, at 17.

²⁰ PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES, JOHN F. KENNEDY: CONTAINING THE PUBLIC MESSAGES, SPEECHES, AND STATEMENTS OF THE PRESIDENT, JANUARY 20 TO DECEMBER 31, 1961, at 600 (1962).

subcommittee assigned to report on the topic, noting the dependence of horse-betting bookmakers on the race wire and sports bookmakers on handicap services which dispensed the line, recommended amending the Wire Act to tighten it and account for advances in technology, including wide area telephone and data service. The committee also suggested legislation to outlaw the interstate distribution of crooked gambling equipment and to further study the corruption of athletes by professional gamblers through bribery.²¹

Congress, perhaps content to have finally passed a prohibition on interstate wagering transmissions after over a half-century of consideration, declined to take up the issue again. Still, that Congress felt compelled to update the Wire Act based on technological innovations may suggest that the authors intended it to have a narrow definition. Current arguments that the Wire Act should not apply to the Internet, a technology not in use in 1961, may carry more weight than most legal scholars assume.

AFTER THE WIRE ACT

In fact, the telegraph wires that carried odds and racing information—the key gambling arteries that the Wire Act hoped to staunch—were already dwindling, thanks to changing American tastes. Sports betting was on the upswing, while race betting was on the decline. Bookmakers didn't need dedicated telegraph lines to receive odds and pass along bets, just telephones.

It wasn't long, therefore, before prosecutors used the Wire Act against a range of gaming-related offenders. In addition to initial sorties against bookmakers, the federal government used the Wire Act to launch a massive crackdown against tipsters in 1964. These gambling professionals neither placed nor accepted wagers. Rather, they grew a multi-million dollar business by telling clients how to bet. Though many of the 27 operators snagged in the 1964 sting protested their personal innocence (tipsters often had their clients place bets for them), authorities held that the transactions involved the transmission of gambling information over the telephone and hence violated the Wire Act.²²

It was this kind of outside-the-box use of the Wire Act that pointed the way towards the future. As prosecutors shifted to RICO to battle organized crime,

those wishing to target simple illegal bookmakers were free to use the Wire Act as long as those bookmakers used the telephone to coordinate interstate betting.

When authorities began using the Wire Act in a more expansive sense to prosecute Internet sports books in other jurisdictions, they argued that the law had originally been meant as a catch-all anti-gaming measure. However, two things seemed certain. First, Congress held the original Wire Act to a strict construction, as it had considered amending it to account for technological advances, as it had previously done for a 1951 anti-slot machine statute. More importantly, the role of gambling in American society was shifting dramatically. Within thirty years of the Wire Act's passage, states and the federal government were treating gaming not as a crime to be eradicated, but as a valuable revenue source to be regulated. As a result of this significant historical change, the United States had become a nation in which gaming was the rule, not the exception.

The Wire Act jumped into the digital era in March of 1998, when the Justice Department indicted the operators of six online betting sites: Island Casino and Galaxy Sports of Curacao, SDB Global and Real Casino of Costa Rica, and Winner's Way and World Sports Exchange of Antigua.²³ Three defendants, in the United States at the time of the charges, surrendered themselves and were arrested. The others, however, were outside the United States. Since they were operating legal, licensed businesses in foreign countries, they had little pressing reason to return to the United States to face prosecution.

Of those persons charged, ten subsequently pled guilty in Manhattan federal court to conspiring to violate the Wire Act, three pled guilty to related misdemeanor counts, and seven, including Steve Schillinger, Spencer Hanson, and Haden Ware, of the World Sports Exchange, opted to remain outside the United States, free from prosecution, but

²¹ *Gambling and Organized Crime*. Report of the Committee on Government Operations, U.S. Senate, made by its Permanent Subcommittee on Investigations, at 48–58 (U.S. Government Printing Office, 1962).

²² *U.S. Drive Opened on Bet Tipsters*, N.Y. TIMES, Mar. 6, 1964, at 64.

²³ *Online Sports Books Charged*, LAS VEGAS REVIEW-JOURNAL, Mar. 5, 1998.

unable to return to the country under the penalty of arrest.

The World Sports Exchange's president, Jay Cohen, chose to return to the United States to "clear his name."²⁴ The resulting trial, *United States v. Jay Cohen*, was a test case for the use of the Wire Act against digital bookies. The trial, which began on Feb. 14, 2000 in the New York Southern District courtroom of Judge Thomas P. Greisa, saw Cohen accused of violating the Wire Act by accepting bets from United States citizens.

The prosecution's case rested on the fact that, although Cohen and his co-conspirators were licensed to run a sports betting operation in Antigua, they used the phone system to accept bets from Americans—a violation of § 1084 (a), which made illegal the use of "a wire communication facility" in transmitting bets or information assisting in the placing of bets. "We are here in court today because this bookie took phone bets from Americans over phone lines. That is what this case is about," DeMarco told the jury. That the World Sports Exchange was a lawful business in another country and that Cohen and his partners had labored to follow the laws of the United States in incorporating their company had no bearing on the direct issue—Cohen had violated the Wire Act.²⁵

Cohen's attorney, Benjamin Branfman, conceded "95 percent" of the government's case, not disputing that Cohen's company had accepted bets from undercover agents. Nor did he make any arguments about the applicability of the Wire Act in the narrow sense. Instead, he argued that as the president of a legal business, Cohen broke no laws, and, furthermore, he did not personally accept any bets placed by undercover agents, so he could not be convicted of any crime.²⁶ Furthermore, Branfman insisted that Cohen wasn't guilty because he did not believe his actions violated the Wire Act.²⁷ When Judge Greisa instructed the jury to disregard Cohen's *mens rea* but instead just find whether his company accepted bets—which Cohen never disputed—the jury easily found Cohen guilty of eight counts, including one of conspiracy to violate the Wire Act and seven substantive violations of that statute.²⁸ Cohen appealed the case, but lost, ultimately serving eighteen months in prison.²⁹

Some legal scholars and law enforcers, however, may have realized that the Wire Act was not the strongest arrow in the anti-gambling quiver. The next major offensive against online bookmakers,

the 2006 indictments against CEO David Carruthers and founder Gary Kaplan of BetonSports plc, a publically-traded, Costa Rica-based online sportsbook, and nine others, focused instead on racketeering and conspiracy charges, rather than on violations of the Wire Act. The indictments even charged the principals with fraud for claiming that betting with them was legal—which it might be under federal law, if the Wire Act were given a narrow interpretation.³⁰

Ultimately, both Carruthers and Kaplan pled guilty and both received prison sentences.³¹ By this time, however, the federal government had again switched tactics; in September 2006, Congress added the Unlawful Internet Gaming Enforcement Act (UIGEA) to the SAFE Port Act, criminalizing the funding, but not the conduct, of online gaming. Putting pressure on financial institutions with substantial U.S. exposure, the bill's proponents felt, was a surer way of prohibiting online play than prosecuting businesses that were legal where they were established. This might have been an admission that prosecutions under the Wire Act were difficult and even possibly subject to reversal, should a court take the same interpretation of the Act as its authors.

CONCLUSION

It should be clear that, at least in its early days, the Wire Act was not intended as an omnibus prohibition of cross-border gambling; the act specifies wire communications and nothing more. Nor did it hand the Justice Department a patent to prosecute those who used any technologies that have since emerged—that Congress itself reviewed the law as early as 1962 suggests that no one at the time intended this.

In recent years, federal prosecutors have successfully targeted online gambling purveyors under

²⁴ Trial Transcript at 804, *U.S. v. Cohen*, 98 Cr 434 (TPG) (S.D.N.Y. 1998).

²⁵ *Id.* at 14–15.

²⁶ *Id.* at 36.

²⁷ *Id.* at 910.

²⁸ *Id.* at 1316–1318.

²⁹ *'Net gaming operator Cohen freed from prison*, LAS VEGAS SUN, Mar. 23, 2004.

³⁰ David Koenig, *11 People, 4 Firms Charged in Internet Gambling Sting*, WASH. POST, July 18, 2006, at D3.

³¹ *Plea Ends Racketeering Case*, N.Y. TIMES, Aug. 15, 2009, at D6.

racketeering statutes,³² and 2006's Unlawful Internet Gambling Enforcement Act criminalizes the use of financial instruments to fund online gambling. However, the history of the Wire Act suggests that the federal government was not originally intended to serve as a watchdog of cross-border gambling, and that the use of federal resources to criminalize

such gambling, particularly where it is offered by licensed businesses in foreign jurisdictions and not domestic criminal elements, is a recent innovation.

³² United States v. Betonsports, PLC, 2006 U.S. Dist. LEXIS 67004 (E.D. Mo., Sept. 19, 2006).