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GAMBLING AND THE LAW—DICE

John Drzazga

Sgt. John Drzazga of the New York City Police Department continues his presentation of "Gambling and the Law", a discussion of various forms of gambling and laws pertaining to them. This is the third article of the series, and others are to follow. Sgt. Drzazga has had 15 years experience in the New York Department, including anti-gambling squad assignments during 1939-41. From this experience and his study of the subject he has been able to qualify in local courts as an expert on various forms of gambling.—EDITOR.

Dice or galloping dominoes are the favorite pastime of many persons. These games of chance are tainted with as much fraud as any other gambling games. Cheating can even be carried on with fair or honest dice. Some gamblers as the result of constant and prolonged practice have acquired a technique all their own in controlling dice. Others have resorted to switching passers or missouts. The common store dice or commercial variety are far from perfect. Each die usually has one fault or another. In bank games, the percentage is in favor of the house, and in private games it is against the shooter or person rolling the dice.

Utmost care is exercised in the manufacture of fair dice. They must be true and square. The spots may be of the common variety with which every one is familiar, or they may be Bird's eye spots, ring spots, or double bird's eye spots. The different types of edge possible are: razor edge, round edge and corner, light turned or heavy turned edge, raised trip edge, split edge, cut edge, saw tooth edge, raised spot trip edge, etc. Where the dice are ordered from the manufacturer, the name, initials, or monogram is usually embossed free of charge. A charge for the die is made where a trade mark is to be stamped on the dice. A slide caliper is used to measure dice for squareness. A micrometer caliper will show variations one half thousandth of an inch.

Devious ways are used by the professional gambler to trim the uninitiated. There are dice loaded to win or lose and with a little sleight of hand are switched into the game. The loads are placed near the edge in solid dice, and the spots through which the load is inserted are repainted. In transparent dice, the spots are drilled out and a tiny gold disc is inserted and painted over, as a large load cannot be inserted as it would be detected too easily. These are sometimes called percentage dice as they increase the user's take or profit. Dice known as "passers" are so loaded as to make more passes. "Missouts" are dice loaded to throw more sevens and less points. "Shifting" dice or "Tappers" are always non-transparent dice which are loaded with mercury. These dice are controlled by tapping them on the floor or elsewhere and allowing

them to stand in the desired position for a few seconds. The load will not shift when thrown. In some table games, the electro-magnet has been used to control the dice. The dice are not controlled unless the table current is turned on. These gadgets sell between \$40.00 and \$125.00 each. Then there are the "floaters" with one end hollow and the other end solid so as to weigh down the dice. "Shapes" are probably the most common variety of crooked dice. They are cubes which have had one or more sides shaved or filed down and the edges beveled to cause them to fall on the broad side. There is a balancing caliper on the market which will detect loads in dice. Suction dice with a concave surface are also intended to serve the same purpose. Dice are often capped with a thin layer of specially prepared celluloid so as to trip certain sides. Dice capped to show an ace will show such ace with surprising regularity. They can be prepared for missing or passing. "Horses" or "Tops and Bottoms" are misspots usually having three numbers which are repeated. "Door pops" are another variety of misspots which will throw a seven or eleven with each roll.

All varieties of crooked dice can be purchased from gambling supply houses. If any type of crooked dice are desired that are not in stock, they will manufacture them to order. Catalogs of such supply house usually state that all orders are filled for entertainment, magical, theatrical, and legitimate purposes only. Some of the dice manufacturers maintain night phones to accept orders. They will not exchange merchandise. When a personal check accompanies an order, the order is delayed until the check is collected. Dice fixing and manufacturing outfits can be purchased at from \$10.00 to \$22.50 by those who wish to do their own work. Gamblers have also resorted to polishing dice on one side to make them slide; using wax and liquid preparations to make them stick; heating dice and squeezing them in a vice to raise the edges; leaving a raised unpolished spot and other crooked schemes to control dice.

There are many different varieties of dice, such as poker dice; ball cornered dice with numbers from one to six; bank clearing or stock exchange dice with numbers from zero to nine; et cetera.

Bank or house games are usually played on tables with a layout. No side bets are permitted. All bets are made with the house. Some of the more common dice games are.

Craps. The common American "crap" game is a descendant of the old English game of Hazard. Two dice are used in "craps." Each of the dice has from one to six spots or aces. The spots on the opposite

sides of each fair dice should add up to seven. Any number of players may participate in a crap game, and they may enter or leave at any stage of the game. When the dice are thrown, the top numbers of the two dice are the numbers used. If the player rolling the dice throws a "natural" on the first roll, i.e., a seven or eleven, he wins. If he throws a crap, i.e., two, three, or twelve, on the first roll, he loses. If a four, five, six, eight, nine, or ten is thrown on the first roll, it is the player's (shooter's) point, and when his point appears again he wins. If he throws a seven after his point and before the point appears again, he losses and the dice pass to the next player. The person who covers or fades the bet of the shooter is known as the fader. The percentage is in favor of the fader. Meanwhile side bets are made by other players. The odds in a bank crap game are figured with a percentage of approximately $12\frac{1}{2}\%$ for the house. In open games the operator is entitled to a cut.

Chuck, Chuck-a-Luck, or Birdcage. This game is played with three dice in a cage which is spun. A layout with numbers of from one to six is used. The player places a bet on a number on the layout. If the number appears on one dice, he wins even money; if on two dice, he wins two to one; if on all three dice, he wins three to one. The percentage in this game as in all other dice games favors the house, but in spite of this, electro-magnets and loaded dice are frequently used.

Hazard. Hazard is played with three dice. A chute known as a "Stacker Shaker" or "Stack-Cube" used to throw the dice. A cup may also be used. Very popular as the odds on three of a kind usually are 180 to 1. A Hazard layout is used.

Four, Five, Six. This is a game played with three dice. A pair and a six, or three of a kind win. One, two, three, or a pair and one losses. If the player throws a pair and the number two, three, four, or five, the odd number is the point, and the player with the highest point wins if there was no winner.

Twenty-Six. Ten dice and a cup are used in this game. The player selects any number from one to six. He then throws the dice thirteen times. He must throw twenty-six or more point numbers to win. Some operators pay off on less than eleven also. A favorite trick, is to hold out one dice or to put down less points than he actually makes. The complete outfit for this game retails at from \$12.00 to \$20.00.

Buck Dice. This is usually a bar game. Three dice are used. High man goes first. One dice is first thrown for a point then all three. Three

of a kind on a point wins the game. Usually 15 points required to win. Five points given for three of a kind other than point. It has been played with more or less points.

Hooligan. This is a bar game for drinks. Low man pays for the drinks. Five dice and a cup are used. A frame of three throws is allowed each player. The player calls a point. If he scores a point on any die, he removes the point die and puts it aside. If all five dice are put aside before three rolls, he starts with five dice again. To get score, the point number is multiplied by number of times the dice are thrown. On each turn, the player chooses a different point. On the seventh frame, he plays for a Hooligan which is a straight.

The number of games now played would fill a book if a detailed description were given of each. Some are: Montana, Poker Dice, Chinese Hi-Lo, Acey Deucey, Horse Dice, Barbout, and First Flop.

LEGAL DISCUSSION

The statutes covering dice and card gambling vary in the different states. A New York statute¹ which is used to prosecute the professional gambler reads as follows:

A person who is the owner, agent, or superintendent of a place, or of any device, or apparatus for gambling; or who hires, or allows to be used a room, table, establishment or apparatus for such purpose; or who engages as dealer, game-keeper, or player in any gambling or banking game, where money or property is dependent upon the result; or who sells or offers to sell what are commonly called lottery policies, or any writing, paper, or document in the nature of a bet, wager, or insurance upon the drawing or selection or the drawn or selected numbers of any public or private lottery; or who indorses or uses a book or other document for the purpose of enabling others to sell, or offer to sell, lottery policies, or other such writings, papers or documents, is a common gambler, and guilty of a misdemeanor.

Casual betting or gaming by individuals, as distinguished from betting or gambling as a business or profession is not a crime according to New York court decisions.² But it is a crime in many other states. Players are usually charged with disorderly conduct, an offense, in New York. And so where a tenant of premises engages in a dice game, such act does not make him a common gambler.³ A person who plays dice for money twice in one day with different persons has been held to be a common gambler.⁴ Where a person was shown to be standing in groove at crap

1. New York Penal Law, Sec. 970.

2. *Watts v. Malatesta*, 262 N.Y. 80, 186 N. E. 210 (1933).

3. *Peo. v. Williams*, 45 NYS2d 641 (1943).

4. *Peo. v. O'Malley*, 52 A.D. 46, 64 NYS 843 (1900).

table, having cigar box in front of him with four dollars in change therein, he was held to be guilty as a game-keeper.⁵

A statute⁶ covering the keeping of gaming houses is also frequently invoked:

"Any corporation or association or the officers thereof or any copartnership or individual, who keeps a room, shed, tent, tenement, booth, building, float or vessel, or any other enclosure or place any part thereof, used for gambling or for any purpose or in any manner forbidden by this article, or for the making of wagers or bets made to depend upon any lot, chance, casualty, unknown or contingent event or on the future price of stocks, bonds, securities, commodities or property of any description whatever or for making any contract for or on account of any money, property or thing in action, so bet or wagered, or being the owner or agent, knowingly lets or permits the same to be so used, is guilty of a misdemeanor."

One who knowingly permits his premises to be used for gambling purposes violates this section and no proof need be shown of his taking a profit from the gambling operation.⁷ A conviction may also be had where one occasionally knowingly permits gambling in his office. It is unnecessary to prove that he habitually does so, or that gambling is the principal business carried on.⁸

Gambling with dice and cards under a California statute⁹ is a misdemeanor; gambling in houses owned or rented is likewise a misdemeanor under another statute.¹⁰ Keeping a place for gambling with cards or dice is a felony in Tennessee.¹¹ In some states, certain types of gambling games are declared to be felonies by statute. The statutes regarding keeping gambling houses differ in details. There is no presumption in law that the owner has knowledge that gambling is carried on. Such knowledge must be proved.¹² But, where one occupies the premises, he is conclusively presumed to know that gambling is carried on therein, while he so occupies such premises.¹³

A rarely invoked New York statute¹⁴ declares it to be unlawful to keep or use any table, cards, dice, or any other article or apparatus, whatever, commonly used or intended to be used in playing any game

5. *Peo. v. Reille*, 50 NYS 2d 196 (1944).

6. New York Penal Law, Sec. 973.

7. *Peo. v. Dubinsky*, 31 NYS2d 234 (1941).

8. *Hitchens v. Peo.*, 39 N.Y. 454 (1868).

9. California Penal Code, Sec. 330.

10. California Penal Code, Sec. 331.

11. Tenn. Code, Sec. 11278.

12. *Flynn v. Peo.*, 123 Ill. App. 591; *State (Iowa) v. Alexander*, 169 N.W. 657; *Lancaster Hotel Co. v. Commonwealth*, 149 Ky. 443; *Harris v. State*, 5 Tex. 11.

13. *Peo. v. Viskniskki*, 255 Ill. 384, 99 N.E. 621; *Ruh v. Commonwealth*, 141 Ky. 585, 133 S.W. 219; *Jackson v. State*, 16 Okla. Cr. 599, 185 Pac. 533; *Robinson v. State*, 24 Tex. 152.

14. New York Penal Law, Sec. 971.

of cards or faro, or other game of chance, upon which money is usually wagered, at any of the following places:

1. Within a building, or the appurtenances or grounds connected with any building in which a court of justice usually holds its sessions; or a building, any part of which is usually occupied by a religious corporation, or an incorporated benevolent, charitable, scientific, or missionary society, or an incorporated academy, high school, college, or other institution of learning, a library company, or building and mutual loan company; or
2. Within any building, or the appurtenances or grounds connected with any building, while votes are received or canvassed therein at any election for an officer of this state, or of the United States; or while any public meeting is held therein; or
3. Within the distance of one mile from the grounds upon which any training, review, drill, or exercise of a military organization created or permitted by laws of this state, is proceeding, or upon which any public fair, exhibition, exercise, or meeting is held in the open air; or
4. Within any vessel lying in, or navigating, any of the waters of this state; or owned or navigated by, or for account of any corporation created by law of this state.

This statute was designed to prevent gambling in the ordinary acceptation of the term, by cards, dice, or other symbols of chance or hazard, and in places more or less private or secluded which in itself is *malum prohibitum* and *malum in se*.¹⁵ Gambling apparatus located in a warehouse within mile of state armory where drill of troops was taking place at the time of discovery was within the statute.¹⁶ Playing cards for cigars, beer, etc., is contrary to the law.¹⁷ Cards, dice, poker chips, and percentage books are gambling apparatus, but money and diamond rings found in the same place are not.¹⁸ Money has been held not to be a "device" or "apparatus" for gambling.¹⁹ It is unlawful to keep any apparatus for playing any game of chance on which money is usually wagered in the building or grounds of a religious corporation; an apparatus which decides by the turn of a wheel which one of a set of articles of different values a person is to receive for the payment of ten cents at a bazaar on the property of a religious corporation is illegal, and the fact that every person wins something and the purpose for which the money so received is to be used, being immaterial.²⁰

Any peace officer authorized to make arrests for gambling is required by law²¹ to seize any table, cards, dice, or other articles suitable for

15. *Peo. v. Todd*, 51 Hun. 446, 4 NYS 25 (1889).

16. *Ruth v. Higgins*, 166 Misc. 410, 2 NYS2d 563 (1938).

17. *Hitchens v. Peo.*, 39 N.Y. 454 (1868).

18. *Peo. v. Mettlemen*, 155 Misc. 761, 281 NYS 474 (1935).

19. *Rader v. Simmons*, 264 A.D. 415, 35 NYS2d 573 (1942).

20. *St. Malachy's Home v. Hylan*, 200 NYS 856, 121 Misc. Rep. 344.

21. New York Penal Law, Sec. 977.

gambling purposes found in possession or under the control of the person arrested. Upon conviction these gambling implements are to be destroyed.²² A "steerer" who persuades another to visit any building or part of a building for the purpose of gambling, in consequence whereof, the other person gambles therein, is guilty of a misdemeanor.²³ The "steerer" is also liable to such person in an amount equal to any money or property lost gambling, and a civil action can be maintained to recover same. Any person in charge of a vessel or float who knowingly permits any gambling for money or property aboard such vessel or float, or upon acquiring knowledge of the gambling, does not immediately prevent same, he is liable to a fine not exceeding \$500.00, and in addition the party losing the money or property may sue him to recover the value thereof.²⁴

New York also has a statute²⁵ prohibiting cheating at gambling. Not only is it unlawful to gamble, but it is unlawful to cheat while gambling. The statute reads as follows:

"A person who, by any fraud, or false pretense whatsoever, while playing at any game, or while having a share in any wager played for, or while betting on the sides or hands of such as play, wins, or acquires to himself, or to any other, a sum of money or other valuable thing, is guilty of a misdemeanor."

California²⁶ and some of the other states have similar laws prohibiting cheating at gambling.

(To be continued in a later issue)

22. New York Penal Law, Sec. 979.

23. New York Penal Law, Sec. 980.

24. New York Penal Law, Sec. 981.

25. New York Penal Law, Sec. 988.

26. California Penal Code, Sec. 332.