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## GAMBLING AND THE LAW—CARDS

John Drzazga

In this fourth article of this series Sgt. John Drzazga continues his presentation of *Gambling And The Law*, a discussion of various forms of gambling and legal decisions pertaining to them. Sgt. Drzazga has had 15 years experience in the New York Police Department, including anti-gambling squad assignments during 1939-41.—EDITOR.

The invention of cards is like that of dice of doubtful origin. Chinese have been credited with the invention of cards, and the Greeks with the invention of dice. Like dice, bank or house card games show a percentage favoring the house. In some instances a cut is obtained by the operator of open games, in others a profit may be derived from the rental of equipment and the sale of merchandise to the players.

Faro had been one of the most popular banking games in this country. It was popular in France during the reign of Louis XIV and had been prohibited by royal decree in 1691. In England it was prohibited by Act of Parliament in 1738. This game is played with a full deck of cards, a layout, and a faro box equipped with a spring at the bottom to force the cards up. A nickel silver faro box retails at \$40.00. The cards are shuffled, cut, and placed in the faro box face up. Bets or wagers are placed on cards on the table layout. After all the bets are placed the dealer moves the top card. The player betting on the card now visible wins, the odds being two to one. The dealer then removes the second card, and all the money on the card now visible goes to the dealer. Where the second card is of the same denomination as the first card, this is a "split," and the dealer gets half the money. Guessing the order of the last three cards is part of the game. Players can play to win or lose. A number of variations in this game exist. The game at first had been honestly played, but later stacking, pricking, and other means had been employed to cheat. As many excellent books exist describing the various card games, they are touched upon superficially only here.

Three card Monte, originally a Mexican game, is nothing more than larceny. This game may be found at fairs, carnivals, and busy thoroughfares. A crowd is assembled through some subterfuge. A table may or may not be used. The operator lays three cards face down on a table if one is used or holds the cards face down, and accidentally on purpose bends or creases the corner on one of the cards so that it can be easily identified. Bets are then accepted. The operator usually works with two confederates. One or both of the accomplices will start the betting, and they win. The ace with the bent corner turns out to be

another card as soon as bets are laid by outsiders. Many tricks are used to cheat in this game as having two cards with bent or creased corners and sleight of hand; trick cards with different markings at each end are also used; and some operators have made use of waxed cards. This game is as crooked as the old shell game.

For every gambler that is happy because he had won, there is another who is unhappy because he had lost. Human avarice knows no bounds. Where money is concerned, friends may prove to be anything but friends. The methods used to cheat at cards are many and varied. Many holdout devices have been invented and used in the days gone by, but are not suitable for use by the modern professional gambler. Some of these holdout devices are: A suction table holdout with a wire clip to take cards; a spring table attachment with a holdout slot, and known as "The Bug"; arm pressure sleeve holdouts where cards go and come by pressure of the arm to the side and which retail at from \$25.00 to \$60.00 each; the pocket book holdout; the coat pea shooter holdout which retails at \$25.00; the Keplinger holdout which works through the sleeve and is operated by spreading the knees or stretching a leg and retails at \$60.00; the air pressure holdout; ring holdout used to palm cards; the coat spider holdout with spring blade and sharp prongs for attaching to coat; the vest holdout which works on the same principle but is larger, and a card is inserted or extracted by simply drawing the hand over the breast; the Martin knee action holdout which retails at \$100.00; and the foot and hip holdout which retails at \$125.00. Most of the present day sharps consider these holdouts antiquated and unsafe to use.

Check copping wax is used on the palm of the hand to steal or cop checks. Another method used to cheat at cards involves the use of reflectors or "shiners" in order to read the cards of other players. Some of the devices of this type are: The sucker cup reflector which is attached below table level; the match box shiner; bill shiner (green in color so as to blend in with the money between which it is placed); a pipe reflector which is placed in pipe that is put on table in a position that will show the cards; a ring reflector with magnifying mirror hinge so as to close when not used; reflector buttons sewed on clothing; reflecting stickers for palm of hand; shiners attachable to hand or ring; stack of poker chips with mirror; and a small convex mirror that can be placed in a cigar.

Speaking of mirrors there is on the market a look-out glass which is installed in doors and which has one side mirrored so that the person

on the outside can see only his reflection, but the one on the inside can see through it as if it were plain glass.

Readers or marked cards can be purchased ready marked from the manufacturer or can be marked by the sharp using them. Cards with unprinted backs have been suggested as a remedy, but these are of no help as they can be marked with paraffin so that marking is visible in a slanting position or by the reflection of the light. In some cases readers are made by filling out or blocking out some parts of a printed design. Different parts of a design are filled in for different cards. Shading different parts of a picture is another means of marking cards. A solution of alcohol and a dye can be used for shading. Red ink diluted with alcohol has also been used. Daubing and blurring is another means used for marking cards. A spot of ammonia blotted out after about one half minute will cause a blur. Washing fluid can also be used for this purpose. But this is not suitable for night games as the markings will stand out in the light when the cards are thrown on the table. One manufacturer advertising readers claims that DeLand's deck contains 12,000 secret markings. The Daisy deck has markings which can be read at a distance of fifteen feet. Slick Ace cards make it possible to cut the deck to an ace at any time. Inside tissue wrappers to duplicate wrappers used by factory can be purchased at cost of 50 for one dollar by those who mark the cards themselves and wish to seal the pack again.

Green, red, or blue ink suitable for marking lines, blocking out, or shading can be purchased at two dollars per bottle. Green or brown ink suitable for marking plastic or rubber cards can be bought at \$3.50 per bottle. There is an extra charge for ink in other colors. Phosphorescent ink is used to mark dots on fine lines. It is sold transparent or in white color. The markings can be put on the edge or the printed part. The ink is readable by one wearing dark spectacles. A solution made from wettened sulphur matches has also been used for marking. Spectacles and marking ink can be purchased for \$4.50. Those wearing glasses who find it difficult to use such spectacles can purchase a visor or eyeshade for \$3.00 and it will serve the same purpose. A gloss compound for touching up inking on cards retails at \$3.00.

Slight pricking with pin or other instrument and marking with finger nails have also been used by sharps to cheat. Other methods include, the use of sandpaper glued to finger for scratching cards; crimping or creasing cards; false shuffling; stacking; waxing the ace so that pack will break at point; use of strippers or humps (cards cut or trimmed); capping the deck or using the "spread;" the last is usually worked by

two sharps acting in concert with each other, where one sharp discarding cards, palms a card required by his partner and caps the deck with it.

Some of the card games played are known as: Monte (not 3 card Monte), Roulette, Lansquenet, Diana, Skin, Canasta, Rouge et Noire, Italian Brisk, Rondo, Tan, Chinese Fan Tan, Stud Poker, Seven-and-a-half, Twenty-one, Hokey-Pokey, Straight Poker, Draw Poker, Whiskey Poker, Pitch, Seven-up, Whist, Bridge, High Five, Pinochle, Casino, Euchre, Klabish, Coon Can, Banker-Broker, Klondike, Keno, Lift Smoke, Matrimony, French Dummy, Napoleon, Old Maid, Piquet, Pochen, Deuces Wild, Boodle, Thirty-one, Rummy, Red Dog, and Russian Bank.

#### LEGAL DISCUSSION

The various laws applicable to gambling with dice usually apply to gambling with cards. The State of Nevada is an exception as gambling has been legalized there, and the license fee for card tables is \$25.00 per month. An additional state license and registration has been required since 1945, and the fee for this license is based on the gross revenue. No tax is levied where the gross income is below \$3,000.00 per quarter. Where the gross revenue exceeds \$3,000.00 per quarter, the tax is one per centum of the gross revenue.<sup>27</sup> Reno and Las Vegas are the main gambling centers in that state.

The various card games are considered to be games of chance.<sup>28</sup> The amount and character of articles wagered are immaterial, and so a conviction had been sustained by proof of playing for chips or checks;<sup>29</sup> for the cost of refreshments;<sup>30</sup> and in some states for the hire of table or other apparatus.<sup>31</sup>

A conviction for gambling may be based on circumstantial evidence.<sup>32</sup> The making of a wager or bet may be inferred from the action of the bettor, and it need not be proved to have been made orally or in express terms.<sup>33</sup> The testimony of the arresting officer as to the similarity of the arrangement and equipment discovered to that found in raiding other

27. Statutes of Nevada, 1945, Chapter 248.

28. *McCall v. State*, 18 Ariz. 408, 161 Pac. 893 (pari mutici); *Scott v. State*, 6 Ga., App. 567, 65 S. E. 359 (skin); *Shreveport v. Bowen*, 116 La. 522, 40 So. 859 (draw poker).

29. *Ransom v. State*, 26 Fla. 520, 7 So. 856; *Barker v. State*, 127 Ga. 276, 56 S. E. 419; *State v. Bishell*, 39 Iowa 42.

30. *Hopkins v. State*, 122 Ga. 853, 50 So. 351; *Peo. v. Cutler*, 28 Hun. 465; *Hitchins v. Peo.*, 39 N. Y. 454; *Walker v. State*, 2 Swan (32 Tenn.) 287.

31. *Hamilton v. State*, 75 Ind. 586; *Alexander v. State*, 99 Ind. 450; *Middaugh v. State*, 103 Ind. 78, 2 N. E. 292; *Bachelor v. State*, 10 Tex. Cr. 258; *Hall v. State* (Tex. Cr.) 34 S. W. 122.

32. *Rush v. State*, 22 Okla. Cr. 126, 210 Pac. 316.

33. *Rambolt v. State*, 51 Tex. Cr. 153, 103 S. W. 217.

poker games is admissible in evidence.<sup>34</sup> In a prosecution for setting up and establishing gambling house, the character of the house may be shown by specific instances of gambling committed therein.<sup>35</sup> Card playing for money and as a business as a rule violates some particular statute.<sup>36</sup>

Mere playing of card game for stakes or for amusement unconnected with commercial or professional aspect does not make the player a common gambler under New York law.<sup>37</sup> A contrary view is held in some jurisdictions. Private playing of poker for money is not forbidden specifically by any criminal statute in New York.<sup>38</sup> In the same state a person who merely takes part in a game of poker precisely upon the same terms as the other participants in the game for mere amusement or recreation, and not as a professional gamester, does not thereby become a common gambler.<sup>39</sup>

Duplicate bridge, like any other card game, is a game of chance and, if played for money, constitutes gambling, and one who permitted his apartment to be used for duplicate bridge games, costing fifty cents for seat in game, and paying winning team two dollars as a prize, was held to be guilty of maintaining a place for gambling.<sup>40</sup>

Any one who wins any sum of money or property at playing cards, faro, or any other game of chance, or any bet or wager on the hands or sides of players, can be sued civilly by the person in charge of the pool where the offense was committed, for a penalty of five times the value of the money so won.<sup>41</sup>

The right of the common carrier to eject professional gamblers had been upheld in at least one instance. A notorious card sharp may be put off a train despite duty of common carrier to take all passengers.<sup>42</sup>

Playing cards offered or exposed for sale are subject to a federal tax. This tax applies to and is imposed on one who manufactures cards, offers imported cards, repacks playing cards previously tax paid, or resells packs of cards on which tax stamps have been broken. Persons who come within the provisions of this act are required to register with the Collector of Internal Revenue who will issue a Certificate of Registry

34. *Honea v. State* (Ark.) 3 S. W. 2d 679 (1928).

35. *Commonwealth v. Smith*, 89 Pa. Sup. Ct. 190 (1928).

36. *Frad v. Columbian Nat. Life Ins. Co.*, 178 Misc. 705, 37 NYS 2d 250 (1941).

37. *Peo. v. Pack*, 179 Misc. 316, 39 NYS 2d 302 (1942).

38. *Thuna v. Wolf*, 223 NYS 765, 130 Misc. Rep. 306 (1920).

39. *Peo. v. Bright*, 203 N. Y. 73 (1911); *Matter of Fischer*, 231 A. D. 193, 247 NYS 168 (1930).

40. *Peo. v. Welti*, 179 Misc. 76, 37 NYS 2d 552 (1942).

41. New York Penal Law, Sec. 939.

42. *Thurston v. Union Pacific*, 23 Fed. Cas. 1192.

which the law requires to be posted conspicuously in the place of business. The tax is ten cents per pack of not more than 54 playing cards. Each additional 54 cards or fraction thereof is deemed to constitute a new pack on which an additional tax of ten cents is levied. Miniature playing cards, fortune telling cards, or trick cards composed wholly or in part of playing cards, are subject to the tax. The tax is paid by affixing revenue stamp to each pack.<sup>43</sup>

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43. Act of Aug. 27, 1894, Sec. 46.