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Statement by Professor Charles Nesson
on Governor Patrick's Casino Bill
Delivered at the Massachusetts State
Boston, Massachusetts
March 18, 2008 *

Who Wrote Governor Patrick's Casino Bill?

Governor Patrick's Casino bill would make it illegal for state residents to play poker online, with penalties ranging from hefty fines to jail time of up to two years. How crazy is that?

A disgraceful federal law passed without democratic process as a rider to a port security bill already criminalizes payment transaction companies for processing bets. But even that misguided law stops short of criminalizing online poker players.

Since November 2007 when Governor Patrick offered up his casino bill I have been trying to determine who or what force is behind the criminalization provision.

I spoke with the governor's spokesperson on the casino bill. He surprised me by being completely unaware of the criminalization provision. Obviously this was not something high on the governor's agenda.

Word in the poker community was that lawyers for Sands Casinos in Las Vegas had contributed to the crafting of the casino bill. And indeed I had seen Sheldon Adelson, the powerful chairman of Sands, present and in the flesh at the State Legislature's December 19, 2007 hearing on the bill. So I wrote him a letter and asked him directly: do you support the criminalization provision? Did you help write it? To my surprise, on March 6th he replied to my letter disavowing any involvement in or support of the provision. To my delight he offered to help "encourage its separation from the bill." So it seems not to be

the casino interests who stand behind the criminalization provision.

With Mr. Adelson's letter, I have gained an ally. But I have not solved the puzzle. In the meantime, Kyle Sullivan, the Governor's press secretary, accused me in public print of being "ill informed" about the bill. So I wrote him and said, "As one who is well informed, would you please clarify who wrote the bill and how the criminalization provision got in there?" There's been no reply as yet.

I keep sending letters - to Daniel O'Connell in the Office of Economic Development, to John Hall the president of Suffolk Downs, which is the State's largest racetrack, to George Carney, who owns the dog track in Raynham. I will keep writing letters and pressing the issue until I get an answer.

Who wrote the bill's strange provision to criminalize online games? The Governor's people say it wasn't him (even though it's nominally his bill). The Las Vegas casino interests say it's not them. Both questions should be put to the Governor on March 18th at the State Legislature's next public hearing. Inquiring minds want to know.

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* Actual spoken words may differ from text.

NB: Attached correspondence between Charles Nesson and Kyle Sullivan, Sheldon Adelson, John Hall, Dan Oconnell and George Carney.



March 6, 2008

Professor Charles Nesson
Weld Professor of Law
Harvard Law School
Cambridge, MA 02138

Dear Professor Nesson:

Thank you for your letter of February 22nd. I was traveling out of the country, so I apologize for the delay in responding.

I did read something about this criminalization provision, but, please know, that's all I know about it. I don't support it, and I don't support it either unilaterally or upon request. If you can give me some idea as to how I can encourage its separation from the bill, I would be happy to see if I could help.

Sincerely yours,

Sheldon G. Adelson
Chairman of the Board

SGA:bay



Jonathan Cohen

From: "Charles Nesson" <nesson@gmail.com>
To: "Jonathan Cohen" <jcohen@weisergroup.com>
Sent: Tuesday, March 11, 2008 5:41 PM
Subject: Fwd: State House News Service: PATRICK ONLINE GAMBLING BAN ILL-FATED

----- Forwarded message -----

From: **Charles Nesson** <nesson@gmail.com>
Date: Wed, Feb 27, 2008 at 2:02 PM
Subject: State House News Service: PATRICK ONLINE GAMBLING BAN ILL-FATED
To: kyle.sullivan@state.ma.us
Cc: josullivan@statehousenews.com

Dear Mr. Sullivan

Jim O'Sullivan reports you as saying that my statement that lobbyists wrote the casino bill is outrageous and ill-informed. i meant no disrespect for the governor, whom i hold in high regard. my statement was not a charge but more my perhaps ill-informed understanding of the realities of how the bill was drafted. When the bill was first announced in August 2007 I spoke by phone with Daniel O'Connell, the governor's point man on gambling . When asked about the criminalization provision he had no knowledge that it was even in the bill and was prompted by an off-phone voice saying "it's there." Since then I have been on a quest to find out who wrote it in.

As one who is well informed, would you please clarify who wrote the bill and how the criminalization provision got in there.

Sincerely,

Charles Nesson
Weld Professor of Law
Harvard Law School
<http://gpsts.org>

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when appropriate (in my judgment) to an open project and not sensitive (in my judgment) in terms of privacy, i may post email to my blog. all privacy requests respected.

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when appropriate (in my judgment) to an open project and not sensitive (in my judgment) in terms of privacy, i may post email to my blog. all privacy requests respected.



Tuesday, March 11, 2008

Mr. Daniel O'Connell
Secretary of Housing and Economic Development
1 Ashburn Place, Room 2101
Boston, MA 02108

Dear Mr. O'Connell,

I am writing you concerning the casino resort bill now being considered in Massachusetts and its provision to criminalize online poker including prison terms up to two years.

There is considerable mystery as to how this provision was written into the bill. The casino interests do not want this provision. Sheldon Adelson has assured me that he is opposed to it and would like to see it removed.

Can you tell me how the criminalization provision came to be in the bill? Do you support the criminalization provision? If not, I ask you to join me and others in working to have this provision removed from the bill.

I would welcome the opportunity to discuss this with you in person.

Sincerely yours,

Charles Nesson
Weld Professor of Law

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Tuesday, March 11, 2008

Mr. John Hall
President, Suffolk Downs
111 Waldemar Avenue
East Boston, MA 02128

Dear Mr. Hall,

I am writing you concerning the casino resort bill now being considered in Massachusetts and its provision to criminalize online poker including prison terms up to two years.

There is considerable mystery as to how this provision was written into the bill. The casino interests do not want this provision. Sheldon Adelson has assured me that he is opposed to it and would like to see it removed.

Can you tell me how the criminalization provision came to be in the bill? Do you support the criminalization provision? If not, I ask you to join me and others in working to have this provision removed from the bill.

I would welcome the opportunity to discuss this with you in person.

Sincerely yours,

Charles Nesson
Weld Professor of Law

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Tuesday, March 11, 2008

Mr. George Carney
Raynham Park
P.O. Box 172
Raynham, MA 02767

Dear Mr. Carney,

I am writing you concerning the casino resort bill now being considered in Massachusetts and its provision to criminalize online poker including prison terms up to two years.

There is considerable mystery as to how this provision was written into the bill. The casino interests do not want this provision. Sheldon Adelson has assured me that he is opposed to it and would like to see it removed.

Can you tell me how the criminalization provision came to be in the bill? Do you support the criminalization provision? If not, I ask you to join me and others in working to have this provision removed from the bill.

I would welcome the opportunity to discuss this with you in person.

Sincerely yours,

Charles Nesson
Weld Professor of Law

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