

FINAL WORD ↗ BY TIM ROWLAND

California Fantasies

Ah, that bastion of liberty and free markets, that home of laissez-faire and let-it-be, that leveler of all the playing fields, the great state of—California?

This can't be. California, a state that seemingly lies in wait for you to commit some overt act that it can regulate, is taking its hands off the wheel and saying "all in" to a burgeoning \$2 billion industry that other states have moved to shut down. And no, it's not weed.

Some caveats: First, the aforementioned industry is fantasy sports, which in the eyes of some will not count as a real live component of productive commerce. Second, there are still regulatory strings attached; a leopard cannot change all its spots in so short a time.

Still, California, as of late winter, was stepping in where others had feared to tread. Its legislature voted 68–1 to legalize online fantasy sports on the condition that purveyors contribute to a fund that would pay for oversight of the industry.

Fantasy sports have gone from a nerdy backwater of fandom to mainstream saturation, thanks to industry titans Draft Kings and FanDuel, which together claim nearly 60 million customers. Fittingly enough, fantasy sports began in California in 1963; the first player chosen in the first fantasy draft was Oakland Raiders quarterback George Blanda.

Fantasy sports allow contestants to draft a team comprised of real-life players. The players' real-life stats then determine the winner, so historically the best fantasy contestants were the ones with the deepest knowledge of the sport. Fantasy, or "roisserie," gained traction in the 1980s, as stat-rich baseball became the leading grist for "roto" leagues, which were fre-

quently made up of guys from the office or a gang of drinking buddies. It might cost \$20 to enter, and the winners would take home \$150 or less. Fun, but small potatoes, financially speaking. (Full disclosure: My first fantasy baseball team included outfielder Oddibe McDowell, who once landed on the Disabled List by slicing himself with a butter knife, and catcher Bo Diaz, who was tragically crushed to death by an improperly installed satellite dish.)

But then the Internet happened. Suddenly there was no limit to the action. Leagues populated by strangers fueled the sport, and whereas old-time roisserie played out over the course of a full season, it now became possible to field a new team and get a payout each day.

Equally important was the surge in information. Suddenly, if a player wanted to know the on-base percentage of a utility infielder for the Seattle Mariners against right-handed pitching during day games, that factoid was only a keystroke away. This was the point at which a knowledge of baseball became less important than a knowledge of math.

Fast forward to modern-day fantasy, where it has become nearly impossible to tune into any sports-like media programming without being bombarded by DraftKings and FanDuel advertisements. Or *had* become impossible, prior to fantasy sports' tickling of the radar of the attorneys general of the several states. For them, the central question became whether fantasy sports are games of skill or games of chance. That matters because under the

law, games of skill are generally legal, while games of chance are not (Powerball notwithstanding).

And this gets back to the aforementioned surge in data. Picking a roster of players based on a love for and knowledge of the game was certainly a skill. But blindly betting on player statistics is not. This might be a difference so subtle that only a trained AG can see it, but nevertheless states such as New York, Texas, and Illinois have branded fantasy sports as gambling—and illegal.

The trouble with this argument is that modern-day fantasy sports are almost certainly games of skill. The same guys keep winning over and over again, thanks to exotic computer programs that give them a small but mathematically significant advantage over the common clay. If we were ladling out truth serum, we would probably discover that this is what has earned the gall of the nation's AGs: for the great majority of fandom, fantasy sports are a sucker's bet.

That means, paradoxically, that the AGs are annoyed with fantasy sports not because they are games of chance, but because they aren't. It also shows the tangled web that's woven when government gets into the business of parsing morals.

Obviously, California has reasons for permitting fantasy sports that have little to do with individual rights. Lawmakers are being leaned on heavily by professional sports owners and, of course, the state will not turn down the revenue that comes from running and taxing fantasy sports like the businesses they are.

But while other states will be spending the coming months—if not years—bogged down in court, at least some lawmakers in California understand that it is fruitless to protect from themselves those who would bet on Oddibe McDowell. R

