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Gambling America
Balancing the Risks of Gambling and Its Regulation

by Guy Calvert

Executive Summary

Americans, it would seem, are all gamblers now. Opportunities abound, from state and interstate lotteries to the traditional contests of horses and greyhounds and in all manner of casinos—Indian or commercial, on land or on water, or just online. But while more and more consumers embrace their freedom to wager, a determined few are agitating to turn back the clock.

Stepping into the fray, Congress has established the National Gambling Impact Study Commission to tally up the "social costs" of gambling and examine a range of regulatory options. The commissioners were also to review the costs of regulation, which presumably calls for thorough consideration of the nongovernmental alternatives. But strikingly, in this regard, they failed. Moreover, these proceedings obscure the important point that gambling, for the vast majority of people, is simply a matter of fun, a voluntary and harmless pursuit that many find rewarding. In moderation, it is neither less wholesome nor less rational than other sources of entertainment, such as television, the opera, or competitive sports.

A high standard of gaming integrity is in everyone's interest. But that is best accomplished voluntarily, by way of private accreditation through independent third parties. The federal government should therefore resist pressure to involve itself further in gambling. And the states too must recognize that prohibition, even in the form of government licensing and oversight, substitutes corruption for enterprise. They should fully expose gambling to the rigors of the market, beginning with the lotteries. It is time for states to relinquish their monopolies.

Confronting uncertainty, taking or hedging risks, presents decisions that are the staple of life and the key to prosperity. There may be risks inherent to gambling, but we should remember that government intervention entails risk too. A coercive effort to eliminate or reduce gambling must compete with that most formidable opponent, human nature. Lawmakers too need to balance the risks.

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Introduction

Along with smoking, drinking, and skiing without a helmet, gambling is once again under the microscope. In 1996 Congress established the National Gambling Impact Study Commission to "conduct a comprehensive study of the social and economic impacts of gambling in the United States."[1] But instead of making a "comprehensive study," the NGISC has confined itself to a fairly narrow review. In particular, the commission's research agenda declares a determination to get to the bottom of "problem and pathological gambling."[2] That is fine as far as it goes, but in view of the constant pressure for government intervention, any study of the impact of gambling should consider the impact of gambling regulation as well.[3]

And pressure there is. Outraged moralists, fretting about a supposed threat to public virtue and fed up with the states' liberal attitude toward gambling, have elevated their campaign to the federal level and expect action. Their goal: "a strategy of containment to minimize the moral risks of gambling for individuals and society."[4]

The charge of "moral risk" conjures up a grim portrait of parents' abandoning their familial responsibilities in favor of uncontrollable gambling, soaking up welfare dollars, and then unleashing their disaffected children to wreak havoc on the community. But in view of the available evidence, some of which is reviewed below, such charges are overblown. The overriding risk—to both individuals and society—is that harsh government measures intended to control or suppress gambling will simply usher in a new era of public corruption, compromising the integrity of government officials, judges, and the police. And for all of that, such measures would do next to nothing to deter truly compulsive gamblers from gambling.

Moreover, a government "strategy of containment" is clearly unnecessary to prevent force or fraud in dealings between gamblers and casinos, bookmakers, and others. All that is required is the rigorous enforcement of contracts, together with an effort by vendors to acquire third-party accreditation of the integrity of their games. A more paternalistic government policy would, quite apart from intruding on the liberties of gamblers and others, make a mockery of any doctrine of individual responsibility—hardly the best way to sustain the moral health of the nation.

Not even, for that matter, the economic health. In case the point has escaped notice, the nation is not in a gambling-induced slump. On the contrary, just as the gambling industry has for the last few years grown rapidly, the American economy has all the while enjoyed heady times. And the gambling boom continues today. While an overwhelming majority of states enthusiastically promote homegrown lotteries, interest in casino gaming is flourishing. According to a recent Harrah's survey, fully 32 percent of U.S. households gambled at a casino in 1996. Those who did averaged 4.8 visits, for an overall total of 176 million visits. And this figure is up 14 percent from 1995.[5] America, it seems, has found a new pastime, or rediscovered an old one.

Gambling, ever dogged by controversy, has a long and colorful history. Historians Lisa Morris and Alan Block hold that "until the 1840s professional, organized gambling was primarily carried out on steamboats plying the Mississippi and Ohio Rivers and the Great Lakes." Later, in spite of prohibition—or perhaps because of it—underworld gambling operations thrived on land, spawning "a series of infamous 'crime towns.'"[6] Lotteries, moreover, hark back to the Old World; Queen Elizabeth chartered the first English lottery, which was drawn in 1569.[7] Later, in both colonial America and the independent United States, lotteries prospered as a much-promoted and voluntary means of supplementing the public coffers.[8] But a steady procession of public scandals took its toll, and in the 19th century a political backlash against lotteries culminated in universal prohibition. The legal lottery did not return until 1963 in New Hampshire;[9] between 1965 and 1993, 35 states and the District of Columbia introduced state lottery monopolies.[10] And so the historical tug-of-war between gambling proponents and detractors continues.

The lesson of history is clear. For all the moralists' bluster, the evident predilection of the American people to gamble is unique neither to modern times nor, indeed, to Americans. To all appearances it is inextricably bound up with the propensity of human beings to take risks, an enduring and arguably benign trait of our nature. Granted, people enjoy gambling for many reasons, some of which may well seem unfathomable to other people. But there is common ground too. For to gamble, by definition, is to play games of chance for money.[11] At heart, therefore, gambling is a combination of risk and ritual. Both components are mainstays of human society, for the very good reason that they are a part of our makeup. It is no wonder, therefore, that gambling is universal.

I do not suggest here that gambling behavior, simply because it is natural, is necessarily a moral good. For in many ways the morality issue is beside the point—if gambling is a vice then that is a matter for philosophers or the clergy, and ultimately individual conscience. My main concern is that a coercive effort to eliminate or reduce gambling must compete against that most formidable opponent, human nature. And in any case, gambling is hardly such a danger as to merit heavy-handed intervention. Indeed, in moderation there is much to be said for it: at the very least gambling, for many people, can be fun. Moreover, gambling games, insofar as players must balance risk and reward, offer the opportunity to develop a widely applicable set of skills. In the marketplace and the poker room alike, it pays to know when to hold 'em and when to fold 'em.

The Case against Gambling

While many Americans have embraced the growing opportunities to wager, the critics of gambling have been vocal in their dissent. The various state lotteries are almost universally denounced as immoral and economically harmful. While state revenue hawks undoubtedly enjoy the rake (proceeds), critics argue that "losses fall disproportionately on some of the more vulnerable members of society."[12] Meanwhile, casinos are accused of displacing—even "cannibalizing"—rival service and entertainment businesses, such as hotels, restaurants, and theme parks.[13] Worse, it is alleged, this is achieved by ruthlessly exploiting the addictions of compulsive gamblers, thereby causing financial distress, destabilizing families, and fueling welfare dependence and crime.[14]

Viewed in context, those charges lack merit. To begin with, many of the crime statistics underlying the "gambling breeds crime" hypothesis have been hotly contested on the grounds of dubious measurement techniques.[15] For example, early analysis of Atlantic City crime figures shortly after the arrival of casinos suggested that per capita crime had markedly increased.[16] However, the per capita crime statistics failed to take account of the swelling of the local population due to casino-related tourism, so the estimates of crime were inflated. When the crime statistics for Atlantic City were readjusted to take account of this and other elementary crime-reporting errors, the resulting crime levels were unremarkable.[17]

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At a more fundamental level, there is no evidence that gamblers are any more likely than nongamblers to forsake responsibility. Indeed, one Swedish study found no relationship between gambling and crime, marital instability, or "the degree of participation in community activities."[18] In another survey, the economist Reuven Brenner of McGill University notes that there is "little evidence to support the view that the majority of gamblers squander their money recklessly, whether it is money spent on stakes or money earned from winnings."

There is evidence that many people budget for their expenditures, that

Table 1
Profile of Casino Gamblers

	Traditional Destination Player Profile	New Destination Player Profile	United States Population
Median household income	$44,000	$39,000	$32,000
Male/female ratio	52/48	50/50	49/51
Median age	49	47	48
Education			
No college	48%	50%	51%
Some college	23%	22%	22%
College graduate	19%	18%	17%
Postgraduate	10%	9%	10%
Employment			
White collar	43%	41%	41%
Blue collar	27%	29%	28%
Retired	16%	16%	16%
Other	14%	14%	15%

Source: *Harrah's Survey of Casino Entertainment*, using data from NFO Research and the Bureau of the Census, http//www.harrahs.com/survey/ce97/ce97_demographics.html.

Note: A "traditional" destination is a casino in Nevada or New Jersey. A "new" destination is an Indian or other casino.

People who gamble in casinos are not crazed, welfare-dependent casino desperados.

participants intend to use any large win thriftily and sensibly and in fact do so, spending the money by preference on home-centered items if and when they win.[19]

It is certainly true that the lottery appeals mostly to older people or those of lesser means. In view of the embarrassingly high rake, those who defend the states' monopolies against the forces of competition have a difficult case to answer. But insofar as casino gaming is concerned, the crucial point is that if gamblers are being exploited, they are no worse off for it. Indeed, people who gamble in casinos are not crazed, welfare-dependent casino desperados; they are (by contrast with lottery players) in many respects better off than the average American. A recent industry study found that while the "median age of casino players is similar to that of the U.S. population" (about 48 years), they have more schooling—they are more likely to have done some college and more likely also to have graduated from college. Moreover, the average household income of casino players is 28 percent higher than that of the U.S. population.[20] The details are reproduced in Table 1. Demographics aside, the behavioral portrait of a gambler is striking. An earlier Federal Gambling Commission report declared that gamblers "watch somewhat less television than nongamblers, read more newspapers and magazines, and read about as many books."

Gamblers devote more time to opera, lectures, museums, nightclubs, dancing, movies, theater and active sports. They also socialize more with friends and relatives and participate more in community activities.[21]

In other words, instead of withdrawing from civil society, the typical gambler appears to embrace it wholeheartedly.

Compulsive Gamblers

Yet horror stories of compulsive gambling grab the headlines. Indeed, it is no accident that these issues drive the agenda of the NGISC. While that is understandable, it is hardly the most reliable starting point for gambling policy.

Nobody denies that there are those who, for whatever reason, gamble in ways that harm themselves and others. But while the severe cases are thought to be uncommon, it is difficult to say much more. Measurement and classification problems haunt efforts to reliably estimate prevalence.[22] As if to underline the confusion, William Galston and David Wasserman, in their celebrated moral critique of gambling, concede:

> Although several studies have found large increases in compulsive and problem gambling following the introduction of state lotteries or casinos, the reliability of these findings is limited by inconsistency and vagueness in the definition of "compulsive" and "problem" gambling and by the possibility that much of the apparent increase is due to increased awareness and increased reporting.[23]

And limited also by the difficulty of pinning down the sources. None of the "several studies" they mention here are actually cited by Galston and Wasserman, and in fact other studies seem to show no such increase. For example, a study of gambling behavior in Connecticut found that "probable pathological gambling rates may actually have fallen . . . and have certainly not risen, during a period [1991–96] in which one of the largest casinos in the world was opened in the state."[24]

Moreover, to the extent that compulsive gamblers behave badly toward others, it is not always due to gambling. Another detractor of gambling, Ronald A. Reno, figures that "1 to 3 percent of the adult population are pathological gamblers" but notes that "about half of compulsive gamblers experience problems with alcohol and substance abuse."[25] That is quite a confounding factor: abuse of alcohol alone is associated with all manner of disorderly behavior. In 1996 alcohol was involved in 40.9 percent of road fatalities and was perceived to be a factor by three-fourths of the victims of spousal violence.[26]

This is not to belittle the tribulations of compulsive gamblers or their relations. Truly pathological gambling can and sometimes does result in genuine human misery. But the same—or worse—is true of alcohol abuse, and yet we recognize that alcoholism is best addressed on a voluntary basis rather than through prohibition. Likewise, the best recourse for compulsive gamblers would appear to be counseling and abstinence, not government intervention to prohibit or otherwise limit gambling;[27] after all, compulsive gamblers were probably regular clientele of the many illegal casinos and "bust-out joints" that preceded gambling legalization.[28] And voluntary self-help programs such as Gamblers Anonymous, to have any effect, must truly be voluntary. As the GA literature makes clear, the "compulsive gambler needs to be willing to accept the fact that he or she is in the grip of a progressive illness and has a desire to get well. Our experience has shown that the Gamblers Anonymous program will . . . never work for the person who will not face squarely the facts about this illness." GA also insists on financial independence. Declining any "outside contribution . . . expenses are met through voluntary financial support by the members."[29] Government assistance, it seems, is not welcome.

The best recourse for compulsive gamblers would appear to be counseling and abstinence, not government intervention.

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Irrational Exuberance

In all, the compulsive gambling brouhaha serves mainly to prop up the other charge often leveled by casino critics—that casinos unjustly displace other businesses. True, if people overwhelmingly prefer gambling to other sources of entertainment, some existing businesses may not be able to compete effectively. But this alleged substitution effect is both overstated and quite beside the point.[30] For this is really a matter of consumer taste rather than justice and is certainly a weak excuse for government involvement. Should government protect nongambling businesses from competition in the name of protecting a few compulsive gamblers from themselves? Those businesses might well think so, but in view of their evident conflict of interest, it is a tough argument to make. One cannot help but be suspicious. The trick, therefore, is to portray gambling as primarily a public health issue, which just incidentally threatens the viability of rival businesses. Perhaps all gamblers, not just a compulsive minority, are sick.

The argument turns on the persistent belief that gambling is something entirely irrational. That perception often underpins the moral case against casinos and lotteries alike, for here the gambler squares off against a formidable enemy—the laws of probability. As Mario Puzo's fictional casino president, Gronevelt, asserts colorfully: "Percentages never lie. We built all these hotels on percentages. We stay rich on the percentage."[31]

That shocking revelation, that casinos look to make money from gamblers, is of course true. If it were any other way, the shareholders would have none of it. But it is absurd to confuse the purposes of casinos with those of their patrons, or to pretend that those very patrons are a homogeneous group who all want the same thing and behave in the same way.

In the first place, for some gamblers the "percentage" runs quite the other way. Shrewd poker players rightly expect to make money in the long run.[32] And for those who clandestinely count at blackjack, the odds are typically 1 percent or so in their favor, depending on the particular house rules, counting system used, and skill of the counter.[33] Indeed, this fact may explain why blackjack (or 21) is perhaps the most popular table game in casinos.

More important is the entertainment value of gambling—it is not merely semantics to talk of the "gaming industry." Gamblers may sometimes gamble simply for the exhilaration of a night out under the casino lights. Part of the thrill, no doubt, derives from the very real prospect of winning money, and from taking a risk. Gambling also allows us to control the amount of risk we expose ourselves to; we rarely get to "play" with risk like that in real life, at least not at such low stakes. In any case, to ignore the entertainment value of gambling is a little like ignoring the exercise value of jogging.

It is worth reflecting on this point in detail. For the willingness to pay significant sums for entertainment alone is hardly unique to gamblers: sports fans, for example, are apt to spend several hundred dollars a year on stadium tickets, and opera aficionados routinely shell out even more. This kind of behavior is rightly embraced as a healthy and vigorous celebration of our culture, even as gambling is characterized as a widespread compulsive disorder. But the popularity of all such activities turns on the same ingredient. In the economists' parlance, that ingredient is utility.

The Value of Money

Indeed, much of the knee-jerk opposition to gambling derives from a careless confusion between the expected value of a game—Gronevelt's "percentage"—and its subjective expected utility. The difference is well illustrated by the "St. Petersburg paradox," which Paul Anand attributes to 18th-century mathematician Daniel Bernoulli. As Anand describes it, the problem is as follows.

> For a price, Peter offers Paul the opportunity to take part in a game. A coin will be tossed, and if it lands on

> heads Peter pays Paul 2 ducats. If the coin lands on tails they toss again, only this time Paul will be paid 4 ducats if he wins. Every time Paul loses Peter doubles the stake, and they continue to toss until Paul wins.[34]

Assuming that this is a once-in-a-lifetime, never-to-be-repeated deal, what price should Paul pay Peter to play this game? Notice that the probability of winning 2 ducats on the first toss is ½, and likewise the probability of winning 4 ducats on the second toss is ¼. And so on. The expected value of the game is the limit of the sum

$$(\tfrac{1}{2} \times 2) + (\tfrac{1}{4} \times 4) + (\tfrac{1}{8} \times 8) + \ldots = 1+1+1+\ldots$$

In other words, the game has infinite expected value. But should Paul, therefore, be prepared to pay any price just to play this game? He might well feel a little uneasy about betting a million ducats for what is as likely as not going to end on the first round with a payoff of 2 ducats. Thus, if he were guided by "percentage" considerations alone, he would be all at sea.

And yet surely there is some price you would pay, at least 2 ducats, but maybe 4, 8, 15, or whatever. Indeed, Bernoulli himself felt that "any fairly reasonable man would sell his chance to play the St Petersburg paradox for 20 ducats."[35] The resolution of the paradox is to recognize that money, like just about anything else, has diminishing returns: for most of us, the second $10 million is not as valuable as the first. So if, for example, you start with $10 million, avoiding a loss of $10 million may well be more desirable than receiving a gain of $10 million. How much more desirable depends, in part at least, on how much you enjoy risk.

Such subjective considerations determine the shape of one's putative utility function, which maps wealth onto utility, a real-number measure of subjective value. Utility functions are the bread and butter of "subjective expected utility" theory, which quite simply assumes that people make decisions according to the expected value of their utility function. (Recognizing that, Bernoulli demonstrated that if one's utility function is logarithmic, the expected utility of the St. Petersburg game is finite.) In this matter the honors must go to Gabriel Cramer, another 18th-century theorist who, reflecting on the paradox, explained succinctly the source of all the confusion:

> I believe that it results from the fact that, in their theory, mathematicians evaluate in proportion to its quantity while, in practice, people with common sense evaluate money in proportion to the utility they can obtain from it.[36]

Common sense or not, many criticisms of gambling stumble on precisely this point, as though the inherent enjoyment of the game counts for nothing and all that matters is the expected return. Thus, moralists Galston and Wasserman assume that "gambling is at best zero-sum."[37] But economists, at least, really should know better.[38] For utility is not just a theoretical abstraction of interest only to academics. Our understanding of trade itself turns on the observation that people very often value things differently. Both parties to an exchange expect to increase their utility, or feel better off; thus trade is a positive-sum game. Indeed, were it otherwise, voluntary exchange would never take place. Likewise, if it were impossible that people could actually enjoy gambling, we would be hard-pressed to explain the enthusiasm with which Americans, and others around the world, have chosen to do so.

Gambling and speculation alike necessarily entail a voluntary assumption of risk.

The Darker Side of Capitalism

That explanation does not please everyone. But the perhaps-uncomfortable truth is that there is something stimulating about risk taking. This is the evil apple; the "moral

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risks of gambling for individuals and society" begin and end here. And yet, for those who appreciate the civilizing virtues of free enterprise, there remains a niggling doubt. After all, as Galston and Wasserman put it, "If gambling is a vice, why isn't capitalism?"[39] The answer is not at all obvious. Gambling and speculation alike necessarily entail a voluntary assumption of risk, which to some onlookers may seem a little rash. To the moralists, at least, the "riverboat gambler is a dangerous icon because he appeals to the darker side of capitalism."[40]

Suppose, for the moment, that the moralists have a point. Still, if risk appetite is at the "heart of darkness," we might well ask what is at the heart of that. Do gamblers perhaps harbor an innate appetite for risk? In other words, is gambling, or at least risk appetite, simply a part of human nature? And if so, then can efforts to suppress gambling ever really succeed? According to risk expert John Adams, these questions should not be addressed in isolation. Indeed, when it comes to questions of risk management and regulation, he insists that "an understanding of human behavior is fundamental."[41] Fortunately, just such an understanding is beginning to emerge from the insights of the evolutionary psychology school, as Matt Ridley explains in his intriguing book, *The Origins of Virtue.*

The Nature of Gambling

Ridley is at pains to point out that human beings are distinguished from all other species of the earth by their "collection of hyper-social instincts."[42] Evolution has endowed us with a kind of "exchange organ," which predisposes us to reciprocity in our dealings with others and underlies our sense of what is virtuous and fair. Those individuals who maintain a good reputation—who appear to value the good of the group—are also considered most unlikely to breach agreements of good faith. They are, quite literally, the sort of people with whom one can do business. So cooperation affords the opportunity to specialize and to reap the benefits of trade. And as Ridley emphasizes, this is surely a powerful incentive. For humans, "the advantages of society are those provided by the division of labour."[43]

Agreed. But if the benefits of trade drove the evolution of human nature via the "exchange organ," then that was only part of the story. After all, we do not all just passively divide our labor according to some predetermined and well-known plan. On the contrary, information is scarce. For all the entrepreneurial success stories of history and prehistory, the path to technological progress and wealth is strewn with failures, sometimes catastrophes. Attempts at innovation entail risk, indeed uncertainty. Nobel laureate Friedrich Hayek argues similarly:

> Humiliating to human pride as the insight may be, we must recognize that we owe the advance and even the preservation of civilization to a maximum opportunity for accidents to happen. These accidents occur in the combination of knowledge and attitudes, skills and habits acquired by individual men, and also in the confrontation of qualified men with the particular circumstances with which they are equipped to deal. Our necessary ignorance of so much means that we have to deal largely with probabilities and chances.[44]

It should be added that risk taking cannot simply be a matter of calculation, of weighing probabilities and chances. For it is rarely obvious in advance what benefits will ensue if we are successful, or what disasters will befall us if we fail. If some individuals had not been prepared to take mad uncalculated risks, then who knows where evolution would have left us? The entrepreneurs, or pioneers if you will, were arguably those who combined superior insight with the preparedness, often, to gamble (in the more general sense of the *Oxford English Dictionary* definition: "to stake money [esp. to an extravagant amount] on some fortuitous event"). Our success as a species is testimony that gambling has always been with us.

Redistributing Risk

That is not to suggest that gambling, for all of us, is entirely a matter of risk. But to the extent that risk taking is a part of it, there are consequences for policymakers who would coercively rein in the perceived excesses. For there is a significant body of evidence that each of us is comfortable with only so much risk in our lives. Risk tolerance levels differ from one individual to the next, and those differences may foment disagreement or even trigger conflict. But for our purposes the important point is that people are apt to adjust their behavior to compensate for changes in their risk environment. Adams explains:

> If people do not wish to be safer, if they do not reduce the settings of their risk thermostats, they will frustrate the efforts of risk managers who seek to make them safer than they wish to be. The evidence . . . suggests that the principal effect of their efforts is not a reduction in risk, but a redistribution.[45]

Examples are legion, but a couple of case studies from Adams's book will suffice to illustrate the point. On road safety, Adams cites "clear evidence that engineering improvements—whether to the car or to the road—that increase a car's grip on the road will produce a behavioral response that offsets the potential safety benefit of the improvement."[46] In other words, make the car safer and drivers will drive even faster to get back to the level of risk with which they are comfortable.

Another, similar example is the Davy lamp, which Adams notes "most histories of science and safety credit with saving thousands of lives," and is "usually described as one of the most significant safety improvements in the history of mining."

> But it appears to have been a classic example of a potential safety benefit consumed as a performance benefit. Because the lamp operated at a temperature below the ignition point of methane, it permitted the extension of mining into methane-rich atmospheres; the introduction of "the safety lamp" was followed by an *increase* in explosions and fatalities.[47]

The implications for lawmakers are clear. Unsolicited attempts to exterminate gambling behavior are unlikely to reduce the risks that gamblers are determined to assume anyway. Such efforts may only succeed in increasing risk for others. To see how, it may help to consider an analogous and much-studied case history—the 1920–33 federal prohibition of alcohol.

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The Perils of Prohibition

Indeed, those detractors of gambling contemplating a federal "strategy of containment" would do well to note the similarity between their position and that of the early temperance reformers. For, as economist Mark Thornton explains, the "noble experiment" was an unmitigated disaster:

> Although consumption of alcohol fell at the beginning of Prohibition, it subsequently increased. Alcohol became more dangerous to consume; crime increased and became "organized"; the court and prison systems were stretched to the breaking point; and corruption of public officials was rampant. No measurable gains were made in productivity or reduced absenteeism. Prohibition removed a significant source of tax revenue and greatly increased government spending. It led many drinkers to switch to opium, marijuana, patent medicines, cocaine, and other dangerous substances that they would have been unlikely to encounter in the absence of Prohibition.[48]

It is essential to note that while the particulars of this experience derive from the circumstances of the time, the generalities follow a pattern that should be familiar to economists. Prohibitionist policies impose costs in several ways.

Of course, there is an immediate loss of liberty inasmuch as consumption of the good or service in question is now prohibited by law. This cost is incurred not only by those directly affected (the would-be producers and consumers) but also by those who value personal freedom generally and mourn the loss of liberty itself. Similarly, we are all penalized if effective enforcement of the prohibition leads to the erosion of certain legal rights or liberties, such as an easement of constraints on evidence gathering by police, probable cause for search and seizure on private property, and so on.

Moreover, there are the direct costs of enforcement to the taxpayer, who must now either foot the bill for additional police or put up with a lower level of police service elsewhere due to redirection of existing police resources. And taxpayers are further shortchanged to the extent that the justice system for which they pay is infiltrated with public officials, such as lawmakers, judges, and police officers, who have been corrupted by the rewards of trade in contraband.

We are all penalized if effective enforcement of a prohibition leads to the erosion of certain legal rights or liberties.

In addition, and increasing with the enforcement costs, there are the evasion costs imposed on the not-so-easily-dissuaded consumer of the prohibited good or service. Those costs are particularly significant if the good or service in question admits a class of "compulsive consumers," who for whatever reason just cannot kick the habit (examples include gambling and also prostitution, tobacco, alcohol, and some other drugs). To the extent that the prohibition law was initially passed in a paternalistic effort to protect compulsive consumers from themselves, those costs are somewhat perverse.

Of course, the more widespread the prohibition, the greater the costs. Insofar as gambling is concerned, a statewide prohibition is hardly as bad as a federal prohibition, since in the former case one is free to pursue gambling activities in other jurisdictions. For example, a gambler from Connecticut can always head to Las Vegas or Atlantic City for a weekend of unrestricted casino gaming (or perhaps drive a couple of hours to an Indian casino in her own state). But even then, extra costs are incurred in travel, lost time, and so forth, all of which amount to a deadweight loss.

Another point is that a few, isolated centers of legal gambling will nevertheless attract the entire population of truly compulsive, hard-core gamblers—those few who, by definition, would incur almost any cost rather than stop gambling. It follows that the number of compulsive gamblers in each casino will typically be disproportionately high compared with the general population. So while the casual casino tourist could sometimes be forgiven for believing that "casinos corrupt the local community," that impression is clearly a distortion, and one that a broader prohibition will tend to exaggerate all the more.

A Few Suggestions

It is to be hoped that these considerations, combined with a healthy dose of tolerance, will give pause to those lawmakers contemplating an over-hasty prohibition. But what, then, should governments do about gambling? This is the question that confronts legislators around the country and will soon also confront the U.S. Congress. The answer, as it turns out, is that government does rather a lot already.

Indeed, the extent of government intervention—and the associated costs—were matters for the NGISC to assess. The charter of the NGISC was quite clear. It required a "review of existing Federal, State, local, and Native American tribal government policies and practices with respect to the legalization or prohibition of gambling, *including the costs of such policies and practices.*"[49] However, in view of the NGISC's progress so far, their input on the costs of intervention will probably be limited.[50] In the research agenda developed by a subcommittee, this item was considered of secondary importance and was delegated to the Advisory Commission on Intergovernmental Relations along with a number of other "straightforward" and "descriptive tasks."[51]

But if governments are really to consider further regulation of gambling, then a thorough evaluation of current "policies and practices" must be quite a pressing concern. In particular, two areas of government practice demand immediate attention: state lottery monopolies and government licensure and oversight of casinos.

Lotteries

In many states lotteries have been revived as jealously guarded government monopolies. The favorite playthings of state revenue hawks, they have almost achieved political respectability. This is cause for concern.

Of course, there may be nothing particularly objectionable about playing the lottery. But if lotteries are to be legal, why should the states have a monopoly? In the absence of competition, the states get away with absurd monopoly rents, effectively a consumption tax on lottery participants. According to one (conservative) estimate, the states retain "about one-third of total lottery wagers to finance public-sector activities."[52] By comparison, the casinos' 5.3 percent rake from roulette seems relatively mild. Consumers would surely be better off if commercial ventures were permitted to operate lotteries in competition with each other, just as competition between rival casinos has already led to better deals for casino gamblers.[53] And the poor and elderly have the most to gain. Emprical studies confirm that, in contrast with casinos, lotteries appeal more to individuals who are relatively older and poorer.

Relinquishing their monopoly, the states could still tax the profits of private lottery operations just as they tax the profits from any other enterprise. Moreover, this kind of deregulation would at least partially address the concerns of those who already regard gambling with suspicion and are therefore alarmed by the direct and enthusiastic involvement of their government.

Casino Licensure Invites Corruption

For many years, while casino gaming and even lotteries were prohibited almost everywhere, gambling was mostly the province of organized crime. Today, however, casinos are typically owned and managed by publicly traded companies, answerable to the market discipline imposed by ordinary shareholders in denim rather than the old-fashioned intimidation of men in dark suits.

That widespread gambling legalization has dispelled mob influence is beyond dispute. Whether government oversight played an important role is debatable. This question is important because, naturally enough, industry representatives are eager to defray concerns about cheating. Fearing to lose the patronage of the mainstream public, casinos must be seen to be above reproach—whispered rumors about maliciously programmed video slot machines, or the old Hollywood stereotype of the electromagnet under the roulette wheel, do serious damage to a casino's reputation. But instead of taking their own steps to assure observers of their integrity, the typical response is to call for more strenuous government licensure and oversight of the entire industry.[54]

Except for complete prohibition, it is difficult to think of a sillier policy. By artificially raising the cost of entry to the casino industry, licensure serves to protect current industry participants from new competition. Moreover, to the extent that a license becomes a valuable commodity, public officials overseeing the licensing process are easily put in a compromising position. And licensure is as unnecessary as it is undesirable. Casinos that value their reputation for fair play can always retain the services of a third-party accreditation agency.

The opportunities for corruption that arise from state licensure are exemplified by the current predicament of Secretary of the

In many states lotteries have been revived as jealously guarded government monopolies.

By artificially raising the cost of entry to the casino industry, licensure serves to protect current industry participants from new competition.

Interior Bruce Babbitt. In July 1995 Interior denied three Wisconsin Chippewa tribes a casino license that had been recommended by the Bureau of Indian Affairs. Witnesses have testified that this decision was influenced by political bribes from rival Indians operating a casino outside Minneapolis, near the site proposed for the Wisconsin casino. Certainly, the rival Indians had previously contributed campaign money to Democrats and President Clinton. Moreover, Babbitt allegedly suggested to a friend—who was in fact a representative of the Chippewa tribes—that the license was refused in recognition of those contributions. Awkwardly, the rival tribes later contributed a further $300,000 or so to the Democratic National Committee.

The attorney general considered the evidence of impropriety to be sufficiently credible to justify referring Babbitt's case to an independent prosecutor. Of course, whether or not the allegations against Babbitt are finally upheld is a matter for the courts.[55] But in any case, the current proceedings do little to shore up the integrity of casino operators; rather, the licensing process is at least perceived as a grubby exercise in political back scratching and suppressing competition.

The obvious alternative, as mentioned above, is for gambling vendors to submit themselves to private oversight. This is hardly a radical idea.[56] Among other vendors of entertainment services, authors, playwrights, moviemakers, and restaurateurs routinely submit their products to independent review—after all, this is the function of those familiar and ever-despised "critics." Similarly, the not-for-profit quality assurance company Underwriters Laboratories evaluates more than 17,000 types of products from over 40,000 manufacturers; about 80,000 product investigations were completed in 1997 alone. In all, approximately 14 billion products enter the market annually bearing the UL mark.[57] And all at the manufacturers' cost.

Whether it be of a boring play or an unsafe hairdryer, an unflattering review does grave damage to the market prospects of the product concerned. It follows that it is unnecessary to forcibly restrict market access; consumers can and probably will voluntarily steer clear. And the competitive market for third-party accreditation affords a powerful incentive for the reviewers to maintain their standards. They owe their livelihood to their reputations for good judgment and, above all, independence.

But perhaps the most powerful argument for third-party accreditation of casinos is that some online gambling forums, in the absence of state licensure, already employ it. An example is the Internet enterprise, Global Stock Games, that offers pari-mutuel betting opportunities on the daily movement of 14 stocks in any one of 12 world exchanges.[58] A small entry fee ($5 for those playing the U.S. markets) is charged for each combination entered, and the daily prize money is divided among those who correctly pick the development—up, down, or unchanged—for at least 13 of the 14 stocks. Independent custodians are retained to oversee the payment of prize money according to the rules,[59] and the site supports standard Internet protocols for the secure transmission of credit card payments. Clearly, GSG and similar services recognize their customers' security concerns and regard expenditure on quality assurance as essential. There is no reason to believe that other casinos—on land or on water—would come to any other conclusion.

Conclusion

In the 1997 film *Gattaca*, two brothers compete against each other in a futuristic Brave New World. Every day as they grow up together, they swim stroke-for-stroke out into the sea, each striving to outlast the other. It is a game of chicken. If one gets scared or cannot continue, he turns back to shore, defeated.

The naturally conceived Vincent, plagued by congenital disorders and doomed to mediocrity, seems no match for his genetically screened younger brother, Anton, whose superb DNA assures him of a bright athletic and intellectual future. Although Vincent becomes more and more determined to win the contest, he is consistently beaten, as in all else. For many years, as expected, Anton is the undisputed champion.

Until one day. On this occasion, incredibly, Anton falls behind, struggles, and very nearly drowns. Now Vincent, saving his brother's life, is transformed by a new confidence. His victory becomes a springboard from which his once hopeless dreams suddenly seem possible. Leaving home, he assumes a new genetic identity and dares to contest a prize reserved by society for a carefully bred elite.

As the story unfolds, the brothers are reunited, and we learn of Anton's bitterness and self-disgust in defeat. Demanding satisfaction, he returns with Vincent to the beach, intending to set matters straight. But again, after an Olympian struggle, Vincent is the victor. Anton, humiliated but still unbelieving, pleads to understand how his handicapped brother could twice so outdo him. Vincent's answer is inspiringly simple: "I never saved anything for the swim back."

A heroic battle against the odds, or a reckless gamble? In truth it is both at once, and therein lies the point.

Granted, Vincent is not the typical gambler, spinning wheels or shooting craps. And yet he gambles, risking death for a slim chance of a meaningful life, and at lousy odds. To many of us, there is something stirring in his determination to fight the "percentage," a defiant expression of an indomitable human spirit. We understand that, while the risk of failure is great—and the consequences are terrible—sometimes, at least, fortune favors the bold. As Vincent insists, "It is possible."

This is not to get caught up in romanticism but simply to acknowledge that Vincent's choice is, for good or ill, his own. The wisdom of his choice, which affects him so personally, is entirely a subjective matter. But in a free society, it is and must be his choice to make. It seems only fair that the same freedom should extend to other gamblers.

The public conflict over gambling animates a larger debate that is of crucial importance to all Americans. On one side is the view that, in some situations, individuals cannot be trusted to face the personal consequences of their own decisions, and so cannot be held accountable when things go wrong. Therefore, in the public interest, government officials must decide for them.

Weighing in on the other side of the argument are those who, like George McGovern, a former Democratic candidate for president, are concerned about a general decline of tolerance. In a recent op-ed in the *New York Times*, McGovern eloquently took to task

> those who would deny others the choice to eat meat, wear fur, drink coffee or simply eat extra-large portions of food. . . . While on any day each of us may identify with the restrictive nature of a given campaign, there is a much larger issue here. Where do we draw the line on dictating to each other? How many of these battles can we stand? Whose values should prevail?[60]

It is incumbent upon classical liberals to resist this presumption: that consensual pastimes are a matter for the state to tolerate sometimes but to outlaw when politically expedient. As the 19th-century economist and philosopher John Stuart Mill famously declared, "Over himself, over his own body and mind, the individual is sovereign."[61] To depart from that standard is to put at risk our inheritance, the tradition of individual liberty upon which America was founded. And that would indeed be a reckless gamble.

The obvious alternative to government licensure is for gambling vendors to submit themselves to private oversight.

Notes

1. See Public Law 104-169, sec. 2, para. 5.

2. National Gambling Impact Study Commission, *Research Agenda*, October 1997, §4, http://www.ngisc.gov.

3. While this line of inquiry leads awkwardly to the doorstep of government itself, it was certainly within the commission's mandate.

4. William A. Galston and David Wasserman, "Gambling Away Our Moral Capital," *Public Interest* 123 (Spring 1996): 69.

5. *Harrah's Survey of Casino Entertainment*, 1997, http://www.harrahs.com/survey/ce97/ce97_index.html.

6. Lisa Morris and Alan Block, "Organized Crime and Casinos: An International Phenomenon," in *Gambling: Public Policies and the Social Sciences*, ed. William R. Eadington and Judy A. Cornelius (Reno, Nev.: Institute for the Study of Gambling and Commercial Gaming, 1997), p. 664.

7. Reuven Brenner, *Gambling and Speculation* (Cambridge: Cambridge University Press, 1990), p. 10. This lottery offered a first prize of 5,000 pounds together with "another prize that rendered the buyer free from arrest for seven days except for a major crime." The authors remark further that "this first lottery was not a great success, in spite of advertising."

8. Ibid., p. 14.

9. Ibid., p. 18.

10. Susan Robinson Summers, David S. Honeyman, and James L. Wattenbarger, "The Resource Suppression and Redistribution Effects of an Earmarked State Lottery," in *Gambling: Public Policies and the Social Sciences*, p. 537.

11. *Oxford English Dictionary* (Oxford: Oxford University Press, 1971): "Gamble, v. . . . 1. intr. To play games of chance for money, esp. for unduly high stakes; to stake money (esp. to an extravagant amount) on some fortuitous event."

12. Galston and Wasserman, p. 63.

13. The rather colorful "cannibalization" charge derives from Robert Goodman, *The Luck Business: The Devastating Consequences and Broken Promises of America's Gambling Explosion* (New York: Free Press, 1995). But as Robert R. Detlefsen notes in "Anti-Gambling Politics—Time to Reshuffle the Deck," Competitive Enterprise Institute, 1996, p. 15, others such as Rep. Frank Wolf (R-Va.) have taken up the rallying cry. "Income spent on gambling is not spent on movies, clothes, recreation services, or other goods and services. Gambling cannibalizes other business such as restaurants." *Congressional Record*, January 11, 1995, p. E86.

14. For a concise presentation of the "gambling breeds crime" school of thought, see Ronald A. Reno, "The Diceman Cometh," *Policy Review*, March–April 1996, p. 42.

15. For a thorough survey, see Jeremy Margolis, "Casinos and Crime: An Analysis of the Evidence," Altheimer & Gray, Chicago, 1997.

16. Reno reports that "three years after the arrival of casinos, Atlantic City rose from fiftieth to first in the nation among cities in per capita crime" (p. 42).

17. Margolis, pp. 15–18.

18. Brenner, *Gambling and Speculation*, pp. 38–39. Here the author cites a 1964 study by Nechama Tec, "Gambling in Sweden," from which he concludes that "gamblers and nongamblers discharged their familial, occupational, and social duties in a similar fashion."

19. Reuven Brenner, *History—The Human Gamble* (Chicago: University of Chicago Press, 1983), p. 10. Brenner cites Gallup Social Surveys, *Gambling in Britain, 1972* (London: Gallup, 1972); D. B. Cornish, "Gambling: A Review of the Literature and Its Implications for Policy and Research," Her Majesty's Stationery Office, London, 1978; S. Smith and P. Razzell, *The Pool Winners* (London: Caliban Books, 1975); and D. M. Downes et al., *Gambling, Work, and Leisure: A Study across Three Areas* (London: Routledge and Kegan Paul, 1976).

20. *Harrah's Survey of Casino Entertainment*, "U.S. Casino Player Profile, 1996." The authors conclude: "The demographic make up of the typical casino customer has remained consistent over the past several years. In comparison to the average American, casino players tend to have higher levels of income and education and are more likely to hold white collar jobs."

21. Brenner, *Gambling and Speculation*, pp. 37–38, quoting Federal Gambling Commission, "Gambling in America," 1976. Brenner also finds that "the few things that [gamblers] spend much less time on include home improvements, gardening, knitting, sewing, and going to church."

22. See especially the report by Howard J. Shaffer, Matthew N. Hall, and Joni Vander Bilt, "Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis," Harvard Medical School, Division on Addictions, December 1997, pp. iii–iv. The authors note that the disordered gambling literature is fraught with "conceptual and methodological problems." However, they estimate that past-year rates of "level 3" disordered behavior—corresponding to the most "compulsive" of gamblers—would apply to 1.14 percent of the adults from the general population, within a 95 percent confidence interval of 0.90 percent to 1.38 percent.

23. Galston and Wasserman, p. 64.

24. WEFA Group, "A Study Concerning the Effects of Legalized Gambling on the Citizens of the State of Connecticut," prepared for State of Connecticut, Department of Revenue Services, Division of Special Revenue, June 1997, p. 9. The casino referred to is the Foxwoods Resort Casino.

25. Reno, p. 42.

26. Lawrence A. Greenfield, "Alcohol and Crime: An Analysis of National Data on the Prevalence of Alcohol Involvement in Crime," U.S. Department of Justice, April 5–7, 1998, NCJ-168632, http://www.ojp.usdoj.gov/bsj/abstract/ac.htm.

27. See, for instance, Richard E. Vatz and Lee S. Weinberg, "Is Compulsive Gambling Really a Disease?" *Postgraduate Medicine* 82, no. 5 (October 1997): 264–71.

28. Morris and Block, p. 666. The authors assert here that the "bust-out joints" of post-Depression Newport, Kentucky, were "notorious for taking every penny customers had in any way possible. When a player entered a bust-out establishment, he was bombarded with women, liquor, and gambling opportunities until his pockets were 'busted-out.'"

29. Gamblers Anonymous Home Page, Questions & Answers, http://www.gamblersanonymous.org/qna.html.

30. For the record, some economists have argued that the effect of casinos on local economies is rather more positive. One study concludes that "wherever casino gaming has been implemented, employment has risen and unemployment has fallen; additional tax dollars collected have been used for education and infrastructure; and any initial increase in crime is strictly temporary with an ultimate reduction in the crime rate. On balance, all of the state and local economies that have permitted casino gaming have improved their economic performance." Evans Group, "A Study of the Economic Impact of the Gaming Industry through 2005," September 1996, p. 1-1.

31. Mario Puzo, *Fools Die* (New York: Signet, 1979), p. 179. This is certainly not the last that we hear on this matter from Gronevelt, for whom the "law of averages" is a profoundly moving thing. As he remarks to Cully on p. 472: "You can lose faith in everything, religion and God, women and love, good and evil, war and peace. You name it. But the percentage will always stand fast." The percentage is, quite simply, the cornerstone of his philosophy: "Everything you do in life use percentage as your god."

32. This is not true, of course, of poker variants like Caribbean Stud where the house plays as well. But in many casinos, the house simply provides tables and dealers for games like Seven Card Stud or Texas Holdem and takes a small rake from each pot.

33. For a discussion on the application of counting to Blackjack, see David Sklansky, *Getting the Best of It* (Las Vegas: Two Plus Two, 1993), pp. 102–28.

34. Paul Anand, *Foundations of Rational Choice under Risk* (Oxford: Oxford University Press, 1993), pp. 3–4.

35. Ibid., p. 44.

36. Quoted in ibid.

37. Galston and Wasserman, p. 62.

38. However, many economists slip up on this point too. Be it Milton Friedman or John Maynard Keynes, the dismal scientists often subscribe to a tradition of disdain for gambling, which dates back even to Adam Smith. See Brenner, *History*, p. 11.

39. Galston and Wasserman, p. 62. Taking this question seriously, the authors make some attempt to distinguish between "gambling and business risk-taking." But they assume—as noted above—that "gambling is at best zero-sum," and so get off to a fallacious start from which they do not really recover.

40. Ibid.

41. John Adams, *Risk* (London: UCL Press, 1995), p. 211.

42. Matt Ridley, *The Origins of Virtue* (London: Viking, 1996), p. 6.

43. Ibid., p. 41.

44. Friedrich A. Hayek, "The Creative Powers of a Free Civilization," in *Essays on Individuality*, ed. Felix Morley (Indianapolis: Liberty Fund, 1977), p. 273.

45. Adams, *Risk*, p. 211. See also John Adams, "Cars, Cholera, and Cows: The Management of Risk and Uncertainty," Cato Institute Policy Analysis no. 335, March 4, 1999.

46. Adams points to the results of a Swedish study that "recorded the speeds of several thousand cars travelling around a bend in the road in Sweden." According to Adams, the "vehicles were divided into two groups depending on whether or not they were fitted with studded tyres for winter driving. Speeds were recorded

for high friction conditions (clear and dry) and low friction conditions (snow and ice). In high friction conditions there was no significant difference in the speeds of the two sets of cars. In icy conditions the cars fitted with studded tyres were driven faster than those fitted with unstudded tyres. The greatest difference in speed occurred at the highest speeds—at the speeds most likely to be associated with loss of control; the fastest two and a half percent of cars fitted with ordinary tyres were travelling at 57kph or more, and the fastest two and a half percent with studded tyres were travelling at 63kph or more." Adams, *Risk*, pp. 141–42.

47. Ibid., p. 211. Emphasis in original.

48. Mark Thornton, "Alcohol Prohibition Was a Failure," Cato Institute Policy Analysis no. 157, July 17, 1991.

49. Public Law 104-169, sec. 4(a), para. 2, item A.

50. Public Law 104-169 provided that the commission would have two years to conduct its inquiries, but one-quarter of that period passed before the research agenda was agreed to. As noted above, that agenda set out an ambitious program for studying the nature and extent of compulsive gambling, largely to the exclusion of other issues.

51. NGISC, "Research Agenda." The subcommittee drafting this document appears to have construed the commission's duties with respect to this item quite narrowly. Indeed, the section titled "Other Topics" suggests that three "descriptive tasks" would be adequate to discharge these duties. In particular, "(i) providing a current listing of the forms of gambling available in every major jurisdiction, (ii) a data base of statutes and regulations governing these gambling forms, and (iii) the revenues generated through taxation." The subcommittee add that the "full scale of that work will be determined after estimating the cost of high priority primary research areas."

52. Galston and Wasserman, p. 58.

53. For example, under the stimulus of mutual competition, both of the Indian casinos in northern Connecticut introduced the Late Surrender (LS) option to their blackjack games. The LS (which allows the player to abandon her hand and get half her bet back) is the best play for those hands—such as hard 16 versus dealer's 10—in which the chances of winning are less than 25 percent. Exercising the LS appropriately, the skilled player can cut her losses on those awful hands, thereby reducing the house edge or (if the player is counting) increasing her own.

54. See, in particular, Harrah's, *Understanding Casino Entertainment, 1995*, Report prepared for American Legislative Exchange Council, Task Force on Trade, Tourism, and Travel. "Because it is in the common interest of these companies to demand the strictest standards of probity from themselves and from their competitors, the industry as a whole strongly supports regulatory regimes that enhance the integrity of casino operations" (§13, p. 2). And in the same section: "The continuing proliferation and growing public acceptance of casino gaming across the United States is testimony to casino entertainment's status as one of the most strictly regulated industries in the country" (p. 7).

55. Indeed, it is quite plausible that Babbitt has done nothing illegal. As Jonathan Rauch has argued, Babbitt and others involved in this case may well be "guilty only of politics." Jonathan Rauch, "Infinite Jeopardy," *National Journal*, March 14, 1998. My view on this, quite simply, is that putting casinos beyond the reach of politics goes a long way toward clarifying this sort of legal and ethical dilemma.

56. Indeed, private oversight is really quite mainstream. For an excellent account, see Yesim Yilmaz, "Private Regulation: A Real Alternative for Regulatory Reform," Cato Institute Policy Analysis no. 303, April 20, 1998. As Yilmaz notes, "Much of the regulation in the American economy is entirely private, produced and enforced by trade associations or independent parties" (p. 3).

57. These figures are available at http://www.ul.com/about/glance.htm.

58. www.stockgames.com.

59. At the time of writing, the custodians were Ernst & Young, chartered accountants, Gibraltar, and Peter A. Isola, notary public, Gibraltar.

60. George McGovern, "Whose Life Is It?" *New York Times*, August 14, 1997.

61. John Stuart Mill, *On Liberty and Other Essays* (Oxford: Oxford University Press, 1991), p. 14.

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