The Menace of Competition and Gambling Deregulation

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Why regulate gambling? The industry does not have the characteristics of a natural monopoly as in the case of public utilities. Casinos have neither the fiduciary responsibilities of banks or insurance companies nor the public safety responsibilities faced by such regulated enterprises as airlines. Public regulation of private markets shapes industry structure and influences the behavior of firms within the industry. What behavior needs to be altered in the case of gambling? This question needs to be asked before we design and implement regulatory structures and processes. All too often, we enact economic reform without asking that question [Schmid 1987, xiii].

Recently, as gambling has spread to different locations, regulations have been adopted and later modified. We describe how social concerns about the spread of gaming led to various attempts to regulate the industry. We then describe how subsequent deregulation progressed, allowing increased gambling activity. We use as our theoretical framework John R. Commons's concept of the "Menace of Competition" [1923]. We assert that this concept allows us to understand the development of gambling regulation and the evolution of the industry.

We note at the outset that this paper does not attempt to make a judgment on whether the deregulation that is taking place in jurisdictions with casino gambling is good or bad. The moral dimension of the regulation of gaming is a legitimate concern, but it is not the issue examined in this article. Deregulation, where it has taken place, has been responsible for revitalizing the industry and for increasing total tax

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revenue. It also is plausible, however, that the expansion of gambling has increased social costs. This paper does not attempt to measure these gains and costs or make a prediction as to whether one exceeds the other. Our purpose is to understand the evolution of "gambling regulations" and their effects on the industry. We are suggesting that liberalization of regulations has changed the industry, and those changes have feedback effects that lead to further regulatory liberalization.

**Rising Concerns about Gambling**

Legalized gambling has spread from coast to coast within the last 35 years. There are very few states without some form of legal gambling. New Hampshire started its lottery in 1963, and now legal lotteries are operated in 37 states. Prior to the legalization of casinos in Atlantic City in 1978, casinos were limited to Nevada, but now they are in more than two dozen states. Other forms of gambling, such as racetracks and cardrooms, existed in many states, but their clientele was limited and did not generate the social concern that casinos do.

The spread of legalized gambling has simultaneously brought more public acceptance of gambling and sufficient public concern to cause the creation of the National Gambling Impact Study Commission [Public Law 104-169, 18 U.S.C. 1955]. The Commission had a $5 million budget and a two-year period in which to investigate "the relationships between gambling and addiction, economic development, government funding and corruption" [Lindelof 1998, A1]. While the conclusions and recommendations of the Commission are too numerous to elaborate on here, the concern over gambling's spread is reflected in the statement made by the Commission that it "believe[s] it is time to consider a pause in the expansion of gambling" [National Gambling Impact Study Commission 1999, chap. 1, 7].

Gambling has spread as a means to create jobs and to generate government revenue. It may be no mere coincidence that the most rapid spread of gambling occurred during the period Wallace Peterson called the silent depression and about time of the tax rebellion initiated by California's Proposition 13 [Peterson 1994]. Campaigns to legalize or relax gaming regulations usually appeal to the prospects of job creation and funding for social goods such as education. However, the spread of gaming raises the question: Are these jobs and revenues worth the social costs of addiction and corruption? Even if most gamblers are social, rather than addicted, players, are we "making young people think that games of chance—rather than work—are a way to get through life" [Lindelof 1998, A17]? Moral principles reinforce these social dilemmas. As Adam Smith commented, "the overweening conceit which the greater part of men have of their own abilities, is an ancient evil remarked upon by philosophers and moralists of all ages. Their absurd presumption in their own good fortune, has been less taken notice of... The chance of gain is by every man more or
less over-valued...that the chance of gain is naturally overvalued, we may learn from the universal success of lotteries" [Smith 1937, 107].

If there is a deep-seated drive to gamble that cannot be eliminated by government prohibition, can we regulate gambling to minimize the social effects? That appears to be the purpose of social regulation of gambling. While moralists would simply outlaw gambling, we seek to understand the causes and effects of existing regulations.

**The Spread of Gambling**

When gambling was limited to racetracks and small cardrooms outside of Nevada, there was little concern expressed about the need for regulation. Gambling flourished in Nevada, since the state was remote from most population centers and few expressed concern about the spread of gambling addiction. Congress periodically placed the spotlight on the connections between the emerging Las Vegas Strip casinos, the Teamsters, and organized crime. The effect was to encourage Nevada to strengthen its regulations rather than to prompt the enactment of federal regulations. The most onerous federal regulations came several years later in the form of a measure to account for large cash transactions to reduce money laundering. The target was not gambling, but cash from other illegal transactions.

The major regulatory concern of Nevada was to investigate the owners in order to deny a license to people with ties to the underworld. The other major concern of the state was to ensure that all of the casino winnings were properly accounted for and taxed. While preventing minors from entering a casino, all others were welcome. Little discussion of compulsive gambling or other social problems occurred. This was justified because Nevada was a remote location; people had to go to some trouble and expense to enter a casino.

In the late 1960s, Las Vegas added hotel-casino capacity beyond the market demand, resulting in a temporary market glut. At the same time, given the success of the federal anti-racketeering campaign and its effect on the Teamsters, casino operators were experiencing difficulty in securing stable financing to cover debt obligations and operating expenses. Corporate ownership was extremely impractical at this time because the state required all owners to be licensed. However, Howard Hughes was making Nevada his residence at this time, and he was the sole owner of a corporation large enough to be helpful. He was approached by state and industry leaders and acquired seven casinos, carrying Las Vegas through its glut. Obviously this was a temporary fix, but it led to the next step of legalizing corporate ownership, whereby only owners who owned 10 percent or more of the corporation were required to be licensed.

This change had two unintended, and related, consequences. First, it made casinos subject to the Wall Street fetish for the growth of markets. Second, it provided
the funding and legitimacy for expansion to other jurisdictions. It is unlikely, in our estimation, that we would have experienced the nationwide spread of gaming if casinos were limited to the owner-operator mode that existed prior to 1969.

Casinos are not the only form of gambling that has expanded. In 1963, New Hampshire was the first state to reintroduce a lottery. New Hampshire's goal was to raise money for education. Since that time, lotteries have rapidly spread across the country. Lotteries now exist in 37 states as a means "to bolster public funding" [Lindelof 1998, A1]. Government-operated lotteries are perceived as a more sedate form of gambling than casino action. Furthermore, the direct state involvement in lotteries and the use of the funds for worthwhile public endeavors, such as education, added to the legitimate standing of gambling. Moreover, governments are advertising their lotteries, leading to a stimulation of the demand, and encroaching on the profits of other forms of gambling in some cases. As racetracks and casinos are affected by lottery and other gambling activity in their markets, they lobby to have the regulatory standards reduced. Thus, what began as a means to satisfy the demand for gambling has resulted in a stimulation for the demand and a reduction in the standards.

The Competitive Menace and the Evolution of Economic Organization

Commons developed the notion of the menace of competition from his examination of the shoemaking industry [Commons 1923, 219]. Commons's examination of various historical documents showed him how widening the market for shoes drove down prices and changed the relations between labor and management and between firms as the distance between consumer and producer became greater. He noted that the material techniques used in production were less determinative of economic organization than the development of new markets. The geographic widening of markets, with no changes in production technology, changed the relation between employer and employee with the conflict over the "wage and quality of work destined for the widest, lowest and newest market" [Commons 1923, 232]. Commons then defined the menace of competition resulting from the "marginal producer [who] is the one with the lowest standards of living and cost and quality of work, he is the producer whose competition tends to drag down the level of others toward his own . . . he is a menace rather than an actual competitor" [Commons 1923, 251].

Commons's description of the potentially negative effects of competition parallels the description by Henry C. Adams [1887] who, like Commons, was also a student of Richard Ely. Adams [1887, 38] asserted that free competition may "force the moral sentiment pervading any trade down to the level which characterizes the worst man who can maintain himself in it."

At one level, this analysis of competition may seem compatible with classical economics' description of the role of competition in insuring low prices. However,
Commons and Adams were interested in prices, wages, quality, and the relations between economic participants as reflected in changing court rulings and working rules. Adams sought to explain the effects of competition and to find a legitimate role for government. Both economists therefore sought to make institutions endogenous to the evolutionary process.

Commons's interest in changing economic organization and institutional structure led him to examine the evolution of law and the legal foundations of capitalism [Commons, 1924]. He was particularly interested in the regulation of public utilities. However, he defined public utility very broadly and stated that "each individual is a 'public utility' to the extent that public powers are employed in his behalf against others" [1924, 327]. Businesses also have public disutility, however, and the state may impose "special restraint by imposing on its owners new duties of performance, avoidance, forbearance, in the interest of those who are deemed 'the public'" [Commons 1924, 327]. We see in this description Commons's argument for state intervention in the market. The state intervenes to counter the competitive menace and to prevent the degrading effects on wages, skills, and the quality of output. Adams similarly argued that the law "is an agency for the realization of the higher ideals of men by guarding them from that competition which would otherwise force them to a lower plane of action, or else force them out of business" [1887, 46].

We apply the concept of the competitive menace in this paper to examine the effect of entering new markets on the level of public regulation as seen in the case of the spread of legalized gambling. We extend Commons's concept by arguing that the state's increasing reliance on revenues from gaming makes the state itself a member of "the public," rather than the protector of it; this change partially explains why states have deregulated gambling. The spread of gaming to neighboring states and the development of new forms of gaming harm the state's fiscal interests, resulting in increased willingness to reduce regulatory standards to meet the challenge of the new competition. In this we see a departure from the description of the state offered by either Commons or Adams.

We must finally mention some similarities and differences between our analysis and James O'Connor's [1973] analysis of the fiscal crisis of the state. O'Connor argues those spending and tax policies of local, state, and federal governments reflect underlying economic and class interests. He claims that the accumulation and legitimation functions of the state cause expenditures to rise faster than revenues [1973, 2]. Our analysis emphasizes the positive feedback from fiscal needs to the legal and regulatory framework within which business operates. Our analysis may thus complement O'Connor's in completing the feedback circle. However, where O'Connor saw special interests using the state for their own ends, we see the state using its sovereignty to create, expand, and derive revenues from the casino industry. The evolutionary process is neither unidirectional nor does it merely affect pas-
sive individuals; rather, it reflects interaction between participants with different goals, requiring an understanding of negotiational and social psychology [Albert and Ramstad 1997; Atkinson 1999].

Gambling Deregulation and Expansion: An Illustration of the Competitive Menace

Prior to 1989, casino gambling in the United States was only legal in Nevada and Atlantic City, New Jersey. Since that time, casinos, including those on Indian reservations, have expanded to 27 states. Moreover, several states, including Kentucky, New Hampshire, Massachusetts, and Pennsylvania, are considering placing video gaming devices at parimutuel racetracks as a way to bolster the parimutuel industry and to stem the tide of money flowing to neighboring states. Similarly, in states where gambling already exists, movements are underway to deregulate as a means to capture a larger share of the gambling market and to better compete with neighboring jurisdictions. Legislators, seeking to raise tax revenue and to prevent money from leaving their states, are relaxing the restrictions previously imposed on gambling. This expansion is not unique to the United States. A similar pattern is occurring in England, where the introduction of the National Lottery in 1994 has significantly increased the competition for the consumer’s gambling dollar, prompting calls for less restrictions on other forms of gambling.

Arguably, one of the best examples of the competitive menace at work has occurred in Iowa. In March 1989, the Iowa Legislature passed the Excursion Gambling Boat Act, allowing limited, low-stakes casino gambling on Iowa’s rivers and lakes beginning April 1, 1991. In so doing, Iowa became the first state to introduce riverboat gambling and the fourth state to adopt non-Indian, commercial casino gambling. It was preceded by Nevada (1931), New Jersey (1976), and South Dakota (1988).

While touting the legislation as an economic development bill designed to revitalize struggling riverside communities, the Iowa Racing and Gaming Commission determined that the regulatory philosophy must be one of restraint in order to match the "wholesome image" of Iowa [Creighton and McGuinness 1991]. Both Nevada and New Jersey served as role models for the formation of Iowa’s regulatory policy. Iowa viewed Nevada’s regulatory structure, however, as too permissive in several areas of casino operation, while New Jersey’s structure was too rigid. In fact, some referred to New Jersey’s structure as "full employment regulation for regulators" [Creighton and McGuinness 1991].

The regulatory structure initially implemented reflected the desire for only allowing limited gaming. Examples of regulatory restraints included a $5 maximum wager and $200 loss limit per excursion, a requirement that only 30 percent of the boat’s square footage could be devoted to the casino, mandated sailing as opposed to
dockside or land-based casinos, and a requirement that sections of the boat be devoted to persons under 21 years of age and to Iowa arts and crafts.

Perhaps most indicative of the desire to have limited gaming was the restriction of gambling to riverboats that resembled Iowa's riverboat history. Riverboats were chosen over land-based casinos, in part, because they were thought to yield the greatest economic stimulus to surrounding local businesses and communities. According to Don Rinehart, then executive vice president of the Clinton Chamber of Commerce, "a riverboat ended up being the perfect solution. People would come, cruise for a few hours, and then go into town to eat at a restaurant or stay overnight" [Doocey 1994, 40]. People could gamble on the riverboat cruise if they so chose, but gambling was viewed as only one of the entertainment options available, a fact illustrated by the limitation of casino space to only 30 percent of the boat's square footage.

Initially, Iowa's riverboats succeeded financially. In 1991, they earned $63.8 million in revenue from 2.1 million visitors, and 1992 saw revenue and visitors increase to $70.5 and 2.2 million, respectively. Innovation and success, however, brought imitation. In January 1990, the Illinois Legislature passed the Riverboat Gambling Act, and on September 11, 1991, boats began operating in Illinois. Most importantly, boats in Illinois operated under a much more relaxed regulatory structure. In particular, they had no restrictions on the amount of space that could be devoted to the casino and no betting or loss limits. According to Michael Ficaro [1993, 24], "the potential for direct competition between Iowa and Illinois riverboats affected the terms of the law in Illinois. As originally proposed, the limits on gambling on Illinois boats were to be essentially the same as those in Iowa. But, when the bill was finally enacted, no wagering or loss limits were imposed in Illinois."

Iowa felt the impact of the increased competition from less-regulated Illinois boats almost instantaneously. In 1993, total revenue fell to $54.3 million, and visits fell to 1.7 million. Perhaps most indicative of the increased competition was the closure of three riverboats in 1992 located in Bettendorf, Dubuque, and Burlington. Iowa's riverboat gambling industry went from five operating boats to two.

Despite the closure and poor performance of Iowa's riverboats, legislation to relax the regulations initially failed. According to Iowa legislators, riverboat gambling was successful at promoting tourism, and it was not appropriate to compare Iowa riverboats with those in other jurisdictions who adopted gambling for different reasons. According to Terrence Hirsch, then director of the Riverboat Gambling Commission: "Legislators did not want high-stakes gaming, so they put the bet/loss limits in place. They wanted excursion boats with small casinos, not casinos acting as excursion boats, so restrictions were put on the size and space requirements of the boats. They wanted entertainment facilities with gaming and that is what they got" [Doocey 1993, 39].
Pressure for deregulation from gambling proponents did not subside, however. The gambling bill that passed in early 1994 removed the $5 betting and $200 loss limits, allowed boats to remain dockside, and lifted the restriction that only 30 percent of the boat be devoted to casino. In addition, three of Iowa’s parimutuel race-tracks introduced slot machines. Almost overnight, Iowa went from having limited casino gaming located only on cruising riverboats to unlimited land-based and dockside gaming.

While the creation of jobs was given by many as the reason for deregulation, it is apparent that the competition from other states was a major contributor to the deregulation bill. Indeed, jobs were only leaving because gambling boats were sailing for less-regulated waters. According to one account, "supporters of the gambling package emphasized that the proposed changes in Iowa’s gambling laws are necessary to help a struggling industry regain its footing" [Jonathan 1994]. Moreover, while the citizens of Iowa ultimately approved the package in a county-wide referendum, a poll conducted February 16-21, 1994, by the Des Moines Register showed that "by a margin of 55 percent to 35 percent, Iowans say the [betting and loss] limits should be increased or repealed to allow boat operators to better compete with casinos in neighboring states" [Thomas 1994].

The introduction of slot machines at racetracks also represented a noted departure from a legislature that originally chose riverboats because land-based casinos were deemed unacceptable. Iowa’s three racetracks, like most parimutuel racetracks throughout the United States, were struggling financially and even declaring bankruptcy as the competition for the consumer’s gambling dollar increased. As a result of the deregulation, Iowa’s tracks now contain 2,838 slot machines and operate 24 hours a day [Salomon Brothers 1997]. This resulted in a remarkable transformation of Iowa’s racing industry. While racing still occurs, slot machines subsidize the activity. For example, in 1996 total parimutuel revenue at Iowa’s three tracks was $18.8 million [Christiansen 1997], whereas slot revenue at the three tracks was $257.6 million [Salomon Brothers 1997]. Of the $276.4 million that tracks earned from gambling, just 7 percent of it came from parimutuel wagering.

Deregulation was successful in reversing the trend of declining revenue and attendance and was responsible for increasing the number of riverboats and gambling establishments operating in Iowa. In 1999, there were 15 gambling establishments, consisting of nine riverboats, three parimutuel tracks with slot machines, and three Indian casinos. By lifting restrictions on gambling, Iowa was able to retain its own citizens’ gambling dollars and to attract those of neighboring states, especially Illinois [Nichols 1998]. Consequently, casino proponents in these states have been calling for deregulation in order to enable casinos to better compete with their less-regulated neighbors and to prevent the exit of gambling dollars to Iowa. In particular, casino proponents in Illinois have sought to remove sailing requirements and allow dockside gambling. In a recent article published in International Gaming and
Wagering Business, it was noted that dockside gaming legislation was introduced that would "put East Dubuque’s Silver Eagle and Jumer’s Casino Rock Island on equal footing with Iowa neighbors that now dominate their markets" and that "farther down the Mississippi, Alton Belle in Alton and Casino Queen in East St. Louis also face dockside competition in Missouri" [International Gaming and Wagering Business March 1997, 20].

In June 1999, these changes became effective when the governor of Illinois, George Ryan, signed legislation that would allow riverboats to remain permanently docked. According to Ryan, "this bill is about economic opportunity and making sure Illinois gets its fair share of the revenues generated by riverboats. Right here in Rock Island, we’ve been forced to watch Illinois dollars go across the border because of operating restrictions placed on our riverboats" [Associated Press 1999]. In addition to dockside gambling, the legislation also eliminated the restrictions on gambling in Cook County, opening up the possibility for a casino in Rosemont, a suburb of Chicago near O’Hare International Airport. This is in stark contrast with the original Riverboat Gambling Act of 1990 that only allowed riverboats to operate in counties with less than 3 million people, a feature that was clearly designed to keep casinos out of Chicago.

Just as Illinois points to competitors in Iowa, Missouri, and Indiana as evidence of the need to deregulate, Missouri points to the relative performance of Illinois boats as the need to remove Missouri’s $500 loss limit. For fiscal year 1996, Missouri casinos averaged $23.82 in revenue per admission, whereas Illinois averaged $47.10. Proponents argue for the removal of the $500 loss limit as a means of increasing revenue per admission. Missouri legislators who favor abolishing the loss limit and cruising restrictions argue that Missouri casinos lose business to Illinois. So far, no attempts to revoke the loss limits have been successful. However, at the time of this writing, the Missouri Gaming Commission was conducting a "pilot project" that would eliminate the "phantom cruises" required by the state and allow unrestricted boarding [Young 1999]. This pilot project is only being conducted on the eastern side of the state. According to Virginia Young [1999], Missouri Gaming Commission Chairman Julian Seeherman noted that "casinos on the state’s eastern edge will be allowed to test the proposed policy first because they face increasing competitive pressure." Moreover, Missouri citizens recently approved "boats in moats," or casinos that operate in man-made basins, a move that critics contend is the beginning of land-based casinos in Missouri.

Other instances of gambling expansion exist as well. Michigan is the most recent state to introduce limited casino gambling in Detroit. Currently there are three casinos scheduled to open in Detroit. While touted as a means of redeveloping downtown, the need to keep Michigan residents’ dollars in Detroit, rather than in Windsor, Ontario, was also a contributing factor. More recently, a proposal to legalize casino gambling in Arkansas was submitted to the state’s attorney general’s
office for approval to appear on next year's ballot. The group sponsoring the proposal cites the need to "build casinos in the state in an effort to keep money from entering other states' gambling economies" [Salomon Brothers 1998].

While the expansion of riverboat gambling has slowed, states such as Kentucky, New Hampshire, Massachusetts, and Pennsylvania are considering placing video lottery terminals or slot machines at parimutuel racetracks. Legislators, citing that citizens and tax revenue are going to other states to gamble, are introducing gambling bills that would legalize slot machines. The factor driving these bills is the gambling competition in other jurisdictions. For example, in a recent article in the Providence Journal-Bulletin, the author noted that "two factors appear to be driving the new wave of casino bills [in Massachusetts]: the threat of New Hampshire legalizing gambling and attracting residents from the Bay State, and the need for a fat infusion of cash" [Johnson 1999]. According to Senator James P. Jajuga, a sponsor of one of the casino bills: "The issues about crime and prostitution—they're not even issues now. It's business now" [Johnson 1999]. And, according to Representative Michael Rodrigues, the possibility that New Hampshire will join the casino rush is not a new argument because Massachusetts already loses its gamblers to Connecticut [Johnson 1999]. Kentucky Governor Paul Patton, commenting on his proposal to establish 12-14 casinos to assist horse racing and compete with neighboring states, noted that "the fundamental question I've been wrestling with is, it appears Kentucky is suffering from all the ill effects (of gambling) and getting none of the benefits" [Schouten 1999]. Finally, in West Virginia, a bill was proposed that would allow video lottery terminals to pay cash, replace the video screen with slot machine-like tumblers, and allow the Lottery Commission to approve changes to video lottery terminals to keep up with changing technology and competition from other states. Notes Delegate Larry Linch who voted for the bill, "I believe we're expanding the power of the Lottery Commission to the point they do pretty much what they desire as long as it falls under the premise it's a computer advancement or to keep up with the competition in other states" [Bundy 1999].

Numerous other debates over gambling expansion are occurring. For example, Alabama is considering a lottery, Indiana is debating dockside gaming, and California is expanding Indian gaming. The list goes on. Regardless of the jurisdiction, the removal of restrictions on gambling is being driven, in part, as a means to compete with neighboring states. If your state does not have gambling, there is pressure to legalize it in order to prevent money flowing across the border. If your state already has gambling, the pressure is to lower the regulatory standard in order to more effectively compete and capture a larger share of the market. As the government's involvement in gambling and reliance on its revenue continues to grow, this pressure will intensify.

The widening of the gambling market and movement toward lower regulatory standards in not unique to the United States. In fact, England may present the most
clear illustration of a movement away from a stated policy as the result of increased competition.

Britain's Gaming Act of 1968 makes it clear that the presence of gaming should only be sufficient to satisfy the *unstimulated* demand. Consequently, gaming, and casino gaming in particular, is severely restricted. For example, gambling establishments (casinos and betting shops) are prohibited from advertising, as this will certainly stimulate the demand for gambling. Casinos are reserved for members only. There is a 48-hour waiting period before one is able to gamble after becoming a member. Membership may only be applied for on-site, and joining through the post or over the phone is prohibited. Casinos are allowed to have only two slot machines, and there is a 25-pence betting limit and, 250 jackpot limit. Finally, before a casino may be opened, the owners must prove that there is sufficient demand in the market to warrant establishing a new casino.

In this setting, the U.K. National Lottery Act of 1993 approved the National Lottery and began operating in November 1994. According to Nigel Kent-Lemon [1997], there are three crucial differences between the national lottery and other forms of gambling. The first is that policies designed to prohibit the stimulation of the demand for gambling are absent in the National Lottery Act. This is perhaps most evident by the fact that the National Lottery is allowed to extensively advertise its product and is not required to prove sufficient demand for its product before installing a lottery sales station or kiosk.

The second difference is that the regulator of the lottery has two conflicting objectives. The first is to discourage excessive participation and to prevent citizens under the age of 16 from participating. The second objective is to maximize the revenue going to the selected good causes.

The third difference is that the regulation of the lottery is separated from the regulatory authority of all other forms of gambling. The lottery is housed under the Heritage Department, the function of which is to ensure sufficient funds are available to maintain the buildings and institutions that make up England's national heritage.

The introduction of the lottery had a negative impact on other forms of gambling. This impact "gave government a reason to make other betting and gaming businesses more competitive so that they could survive and continue contributing tax. Deregulation was available to effect the necessary changes in regulations" [Kent-Lemon 1997].

The deregulation taking place in England is moving the gambling industry away from the original public policy of satisfying only the unstimulated demand for gambling. Examples of the deregulation that has taken place so far include: betting shops are now allowed to sponsor television programs, although they are still prohibited from directly advertising; patrons wishing to become a casino member need only wait 24 hours to gamble; the number of slot machines allowable has been in-
creased from two to six; and newspaper agents are now allowed to accept payments and distribute sports betting slips.

In addition, there are calls for further deregulation. Much of this stems around the ability to advertise, to expand the number of slot machines to three per gaming table, and to increase the betting and jackpot limits of slot machines.

The introduction of the National Lottery in Britain is a noted departure from the public policy of only satisfying the unstimulated demand for gambling. This new competition for the gambling dollar has resulted in limited deregulation in other forms of gambling and calls for further deregulation. If the United States is any kind of indication of the likely outcome of all of this, Great Britain may see a rapid widening of the market for gambling and a race toward a lower regulatory standard.

**Conclusion**

Frequently, government imposes regulations to protect the public. This protection comes in several forms: fair prices, safe products, deposit insurance, etc., but the underlying objective of protecting the public remains consistent. In fact, when the government deems business or industry practices unfair, it frequently steps in to impose penalties or regulation in order to correct the wrong.

It can be argued that gambling is no different. For whatever reason—the inability to accept gambling as a legitimate enterprise, the need to keep out organized crime, or the desire to minimize social costs—whenever gambling is legalized, it is regulated. However, often those responsible for regulating gambling are also reliant on the tax revenues generated by gambling—perhaps more so than other regulators such as the FAA, EPA, or public utility regulators. Competition from neighboring jurisdictions offering casino gambling under a less strict regulatory regime creates an incentive to relax regulation in order to allow local casinos to effectively compete and maintain gambling and tax revenues.

Bill Lindelof observes that the public perception of gambling has changed from viewing it as a sin to viewing it as entertainment [1998]. Government views have similarly evolved from regulating a vice to seeing gaming as economic development and tax revenues.

The menace of competition, defined here as a movement toward a lower regulatory standard inconsistent with the jurisdiction's original public policy, explains the deregulation observed in the gambling industry. This point may be best illustrated by several comments made by the National Gambling Impact Study Commission in its final report. Regarding lotteries, the Commission noted that "one theme that emerged at the Commission hearings is the contradictory role of the state government as an active promoter of lotteries while imposing a heavy 'sin' tax on the lottery buyer" [National Gambling Impact Study Commission Final Report 1999, chap. 2, 3]. In speaking of riverboat casinos, the Commission noted that "... the
original arguments in favor of tourism and economic development have been displaced by the need to generate and maintain tax revenues. The various states' decisions have been driven to a surprising extent not by a steadfast concern for the public welfare but by a fierce interstate competition for tax dollars (and in the process revealing remarkably similar patterns of decision making)" [National Gambling Impact Study Commission Final Report 1999, chap. 2, 7].

Commons [1923] wrote about the expansion of a geographic market causing the evolution of the shoemaking industry. We observe the geographic expansion, new technologies, and new corporate forms causing a similar evolution in gambling regulation. As communities struggle to maintain a vibrant industry while facing increasing competition, they modify their regulations to meet the competitive menace. Where Commons found reduced wages and quality, we find deregulation, literally meaning reduced regulations. We reiterate our initial caveat that our purpose was not to judge whether gambling or deregulation was bad. This paper has given an evolutionary explanation of deregulation using the competitive menace introduced by Commons. In conclusion, we note Commons's finding that the declining wages and quality prompted social concern. Similarly, we suggest that when deregulation conflicts with a jurisdiction's stated public policy, it may encounter resistance and public backlash in the long run. However, just as shoemaking could not return to a craft industry, the changes in public and government perception of the gaming industry will make it difficult or impossible to reverse the evolutionary process. The expanded version of the menace of competition, which includes government advocacy as well as regulation, helps to articulate the answer to our beginning question: Why regulate gambling?

Notes

1. "Phantom cruises" are actually restricted boarding times. Patrons of the casino have a 45-minute boarding window at the top of the hour during each two-hour cruising cycle. So, for example, for the 12:00 "cruise," patrons may enter the casino anytime between 12:00 and 12:45. After 12:45, no other persons are allowed in the casino until the next "cruise," which occurs at 2:00. Since the casino does not actually go anywhere (many "boats" do not even have engines), patrons may leave at will. Only entering the casino is restricted.

References


