

Editor's Note: The Sports Gambling (anti) Federalist Papers

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The foundation for this special issue was laid when the U.S. Supreme Court announced on May 14, 2018, that the Professional and Amateur Sports Protection Act (“PASPA”) violated the anti-commandeering principle contained within the Tenth Amendment.¹ The *Murphy* decision opened the door for states around the country to begin legalizing sports wagering for the first time in more than 25 years. The response to this newfound opportunity has been met with enthusiasm, with more than 15 states passing legislation to legalize sports gambling of various types within their borders in just over two years.² The excitement over sports betting has not gone unnoticed by Congress, which, in September 2018, held a hearing titled “Post-PASPA: An Examination of Sports Betting in America.”³ The hearing sparked debate over what role the federal government should have in a new world where sports betting could be regulated across the country, as opposed to being confined largely to Nevada. An initial effort by the federal government to implement a federal sports betting framework in December of 2018⁴ ended with seemingly little support.

When the *Journal of Legal Aspects of Sports* solicited ideas for a future special issue, I reached out, thinking that an issue surrounding arguments in favor of strong federal regulation of sports gambling and arguments in favor of a strong state role in regulation would make for a very timely contribution. When the journal's executive board approved the special issue, the response from interested scholars was elating. Unfortunately, as authors were working on their articles, the global COVID-19 pandemic hit and disrupted the lives of everyone.

¹ *Murphy v. Nat'l Collegiate Athletic Ass'n*, 584 U.S. ____ (2018).

² See *Legislative Tracker: Sports Betting*, LEGAL SPORTS REP. (last visited July 2, 2020), <https://www.legalsportsreport.com/sportsbetting-bill-tracker/>.

³ See Hearing: Post-PASPA: An Examination of Sports Betting in America, U.S. HOUSE OF REPRESENTATIVES COMMITTEE REPOSITORY (last visited July 2, 2020), <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=108721>.

⁴ See Adam Candee, *Hatch, Schumer Preparing To Drop Federal Sports Betting Bill In Senate*, LEGAL SPORTS REP. (Dec. 19, 2018), <https://www.legalsportsreport.com/26901/federal-sports-betting-bill-drop/>.

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The pandemic has created new obstacles to be overcome, and as states are dealing with the increased expenses associated with implementing pandemic responses, some will inevitably look to new revenue sources, one of which is likely to be expanding sports gambling where they have not already done so.⁵ The articles in this special issue should serve to inform not only academicians, but also policy-makers who are wrestling with how to best regulate sports wagering.

This special issue would not have been possible without the support of *Journal of Legal Aspects of Sport* editor Thomas Baker and associate editor Natasha Brison, who were instrumental in helping this issue come to fruition and took the time to teach me all that goes into putting together a journal issue. I would also like to thank the team of reviewers who were so willing to serve, with many reviewing multiple articles. Finally, none of this would have been possible without the authors, who not only submitted wonderful articles, but were also prompt and thoughtful in responding to questions and comments in the midst of this first-in-a-lifetime event that COVID-19 has imposed.

The first article of the special issue is written by two of the most prominent gambling scholars in the world, Anthony Cabot and Keith Miller. The authors have done a wonderful job of outlining the history of sports gambling regulation and identifying the traditional roles played by both the federal government and state governments. The authors present a convincing case that while there is room for collaboration between the states and the federal government, once a critical number of states begin regulated sports wagering it could be difficult for the federal government to then step in as a collaborator.

The second article in this special issue is authored by Becky Harris, who was the first female chair of the Nevada Gaming Control Board, and one of the witnesses who testified before Congress in September 2018. In her article, she outlines why federal intervention is largely unnecessary to safely regulate sports gambling. The article makes a compelling argument that the federal government, if it is to be involved, should work primarily to help with state regulation of legal sports betting markets and combat multijurisdictional illegal gambling operations, as opposed to taking the primary role in regulation.

Ryan Rodenberg, an associate professor at Florida State University and an expert on sports gambling, authored the third article in this special issue. His article focuses on standing, and more specifically whether states may have standing to sue the federal government if there was a congressional effort to “preempt, or otherwise nullify state sports wagering laws.” The arguments advanced in the article may provide some relief to states who fear that the federal government may seek to undo aspects of their regulations that best suit their own priorities.

The final article in this special issue is written by Daniel Spitz of Santa Barbara City College, as well as California State University, Los Angeles, and Ryan Terry of Texas A&M-Corpus Christi. The article proceeds in three substantive parts. The authors begin by analyzing the positions of various sports organization stakeholders, and move to discussing why federal intervention is not necessary, before advancing an argument for the state regulation of sports

⁵ See Wayne Parry, *Virus Could Lead More States to OK Sports, Online Betting*, ASSOCIATED PRESS (May 29, 2020), <https://apnews.com/4f807ed3fda8a7c357d7826f5a9518a3>.



gambling. The article provides a very thoughtful overview of some of the most contentious issues in the wake of legalized sports wagering across the country, and why it is best for states to decide how to regulate the activity.

These articles feature some of the leading voices in the area of gambling regulation, and the hope is that this special issue will serve as a valuable resource as more states consider legalizing sports gambling across the country. The research and knowledge imparted in these four articles will be of tremendous benefit to both scholars and regulators in the years to come.

