

Today's Supreme Court decision is about much more than sports gambling

Jamie Dupree

May 14, 2018

While many of the headlines from Monday's U.S. Supreme Court ruling will rightly focus on how it impacts the future of sports gambling in America, the decision may ultimately trigger a broader showdown over other issues which states might pursue, under the broad tent of the Tenth Amendment to the Constitution.

"The legalization of sports gambling requires an important policy choice, but the choice is not ours to make," the court's majority wrote in an opinion by Justice Samuel Alito, leaving those moves to the individual states, which may look at legalized betting as a convenient source of revenue.

"Supporters argue that legalization will produce revenue for the States and critically weaken illegal sports betting operations, which are often run by organized crime," the majority wrote.

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The legalization of sports gambling is a controversial subject. Supporters argue that legalization will produce revenue for the States and critically weaken illegal sports betting operations, which are often run by organized crime. Opponents contend that legalizing sports gambling will hook the young on gambling, encourage people of modest means to squander their savings and earnings, and corrupt professional and college sports.

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What's at stake in the aftermath of this decision?

1. A big win for expanded sports gambling. Let's start with the main headline from the U.S. Supreme Court decision, as it opens the door for Americans to be able to legally bet on sports – not just when you are in the state of Nevada. Not every state will probably choose to exercise that right, but they now have the option. Why find a local bookie if you can instead go to a local betting parlor and put down \$20 on the Redskins to beat the Cowboys on Sunday. This legal battle was forced by the state of New Jersey, which wanted to be able to offer sports betting options which are offered in Las Vegas. If your state has casinos or horse race tracks, it could be that betting on football, baseball, basketball and more might also be a part of those venues. You can already bet on horse racing from your phone or computer, so it's really not that big of a jump to major sports leagues with this ruling.

A great day for the rights of states and their people to make their own decisions. New Jersey citizens wanted sports gambling and the federal Gov't had no right to tell them no. The Supreme Court agrees with us today. I am proud to have fought for the rights of the people of NJ.

— Governor Christie (@GovChristie) [May 14, 2018](#)

2. \$50 to Win on The Tenth Amendment. One legal takeaway from today is simple – the U.S. Supreme Court rarely issues rulings which strike down federal laws based on the Tenth Amendment. And that's what happened in this case. The Tenth Amendment basically says if the Constitution didn't spell out a certain power for the federal government, then those unmentioned powers are reserved to the states. "*The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people,*" is what it says. In other words, the states have a lot of power that they can exercise, without the feds stepping in to tell them what to do. "Congress cannot issue direct orders to state legislatures," is the basic principle quoted by the Court. Seems to me that applies to more than betting on the Stanley Cup.

The legislative powers granted to Congress are sizable, but they are not unlimited. The Constitution confers on Congress not plenary legislative power but only certain enumerated powers. Therefore, all other legislative power is reserved for the States, as the Tenth Amendment confirms. And conspicuously absent from the list of powers given to Congress is the power to issue direct orders to the governments of the States. The anticommandeering doctrine simply represents the recognition of this limit on congressional authority.

3. This could certainly be about more than sports gambling. Think about it for a minute. What other issues might be covered by this Tenth Amendment decision from the Supreme Court on sports gambling? "From environmental regulation to sanctuary cities, marijuana to guns, states are flexing their sovereign muscles in a way that strengthens our body politic," wrote Ilya Shapiro of the CATO Institute after the Court's decision. "Federalism is good for red states and

blue states alike,” he added, making the case that individual states should be able to decide if they want gambling, legalized pot, and more. I will repeat what the Court wrote: “Congress cannot issue direct orders to state legislatures.” Both parties like states rights on issues that they favor. This could really open up a political avenue for action on all sorts of items.

In ruling to strike down the 1992 ban on states allowing sports gambling the Supreme Court said, in essence, the Tenth Amendment, "prohibits federal laws that compel states to carry out federal dictates."

The Supreme Court just upheld the legality of sanctuary cities. [#USSC](#) #

— Anthony Jones (@TheBigTizzle) [May 14, 2018](#)

4. Major sports leagues will likely look to Congress for help. It didn't take long for the big players in sports to weigh in on the Supreme Court's decision, and to send a message to Capitol Hill. “We remain in favor of a federal framework that would provide a uniform approach to sports gambling in states that choose to permit it,” said NBA Commissioner Adam Silver, “but we will remain active in ongoing discussions with state legislatures.” The NFL had much the same reaction, urging the Congress to “enact a core regulatory framework for legalized sports betting.” In other words, the major sports leagues don't want different rules in fifty different states dealing with sports gambling. But can Congress really come up with something like that?

Here the full NFL statement on today's sports gambling development from the Supreme Court, via [@NFLprguy pic.twitter.com/anWHybYOSa](#)

— Ian Rapoport (@RapSheet) [May 14, 2018](#)

5. Sports betting: a new source of revenue for state governments. Just think about state lotteries, and how those are used to fund education or other programs in a number of states. In a time of tight budgetary resources, the ability to allow for sports gambling would also give states the opportunity to tax not only the gaming operations, but also the winnings (as someone who bets on race horses, just Google “takeout” for further discussion), and all the associated activities related to sports gaming. Studies about the economic impact of legalized sports gambling in the United States have long used the word “billions” to describe what's in play here, not only in terms of the betting, but in the partnerships with the actual sports leagues, the data content involved, and much more. Would the Congress actually block that possibility? That's possible, but it still seems unlikely.

Today's Supreme Court decision still leaves Congress with the power to prohibit sports gambling. Yet given how state officials are already falling all over themselves to support betting, a potentially lucrative source of revenue for state coffers, don't expect Congress to act.

— Adam Winkler (@adamwinkler) [May 14, 2018](#)