

Op-Ed/Editorials - Governments Join War Against Card Counters

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Law-makers around the world are beginning to agree with casino executives that drastic measures are needed to prevent skillful players from beating the game of blackjack.

State legislatures, casino regulators, attorneys general and judges have let casinos impose special rules against card-counters which would have been unthinkable as recently as ten years ago.

Examples can be found virtually everywhere blackjack is played for money.

A case gaining worldwide attention has been pending in Australia for more than a year. On May 4, 1999 Andrew Scott "lodged a submission (in America we would say "filed a petition") with the Victorian Casino and Gaming Authority (AVCGA)."

Casinos in the U.S. often prohibit skilled blackjack players completely. The Crown Casino in Melbourne did something slightly different to Scott. It put him on its "restricted players" list.

"Restricted" is an accurate description of how Scott was treated. He was not barred. But he could only bet \$25 (US\$14) a hand, no more, no less.

For a card counter, especially one whose opening bet was normally \$100 (US\$59), being restricted to relatively low flat bets was the same as being thrown out the door.

Just to make sure Scott got the message, the casino took other counter-measures, such as shuffling after only half a deck had been dealt.

There is no doubt that everything the Crown Casino did to Scott was perfectly legal. State casino regulators in Victoria, like their counterparts in New Jersey and other jurisdictions, had expressly given casinos permission to foil skillful players. VCGA Blackjack Rule 5.12 reads, AA gaming shift manager may limit a

player to the minimum wager displayed on the sign at a blackjack table. Blackjack Rule 4.5 allows the dealer to put the cut card in the middle of a deck or multi-deck shoe.

Understanding the value of publicity, both to his case and his business (Scott teaches card counting for \$1,500 (US\$880) for a weekend), he publicly challenged Crown chief executive, Lloyd Williams, to a \$100,000 (US\$59,000) game.

A series of hearings have been held on Scott's petitions, the most recent was scheduled for April 2000, for the VCGA agreed to "hold an enquiry into the rules and conduct of blackjack games."

Scott complained of discrimination, of being treated differently from other players, which, of course, he was. Many players, and even casino executives, might think it was unfair. But, neither life nor the law requires that everything be "fair."

Scott's solicitors, from the leading law firm of Slater & Gordon, had to find a specific law that was being violated. Because the casino was acting under rules formally adopted by its regulator, Scott's lawyers had to attack the rules themselves. The best way to have a rule thrown out is to show that it violates a higher law.

In this case, Scott's solicitors are arguing that the Blackjack Rules violate the Casino Control Act of 1991. A regulator's rules are improper if they conflict with a law passed by a state legislature.

This Act, like all gaming laws, says it is designed to ensure "gaming in the casinos is conducted honestly." The argument is that being deprived of the right to play blackjack under the same rules as everyone else in the casino is not honest.

I am writing this before the VCGA issues its ruling. But my guess is that the regulator will determine that there is nothing dishonest in discriminating against card counters.

Casino lawyers know what arguments work. The issue of whether the game is dishonest is handled easily enough. The casino is not cheating and it is not telling any lies.

A player may talk about fairness. But casino games are not designed to offer equal odds to both sides of the tables, let alone to give players an advantage over

the house.

Then the casino lawyers will show why rules allowing anti-counter measures are necessary. Economists and other experts can demonstrate through computer simulations that card counters can bankrupt a casino.

If what the experts say is true, regulators who allows unfettered card counting will be regulating themselves out of their jobs, and regulating the industry they are sworn to protect out of existence. Most importantly, government regulators operate in a small world. They spend much of their work and leisure time talking to representatives of the industry, and almost never to regular gamblers. Casino executives, lawyers and lobbyists tell horror stories about all the damage that card counters, particularly counting teams, can do to a casino.

Players are not organized. So, there is no one to tell the regulators the other side of the story.

Scott might win - he has vowed to spend up to \$200,000 (\$US118,000) - fighting his case. But a victory here would not set any precedent.

Few players are willing to spend hundreds of thousands of dollars for the right to count cards.