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Four Score and Seven(th) Inning Stretch: The Intersection of Government and Sports Throughout American History

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ABSTRACT

Many things would have been different if not for sports in the American society. Not only have sports impacted the people in our society, but it has even gone as far as determining certain pieces of legislation passed in our national and state legislatures. Known as the “sports effect,” the world of sports has greatly impacted American laws and legislation throughout the years. Conversely, American laws and legislation have also impacted the sports community. For these reasons, this Note surveys the different ways that both government and sports have played on one another throughout the years. This Note analyzes these impacts by concentrating on certain laws that have been passed and Congressional probing by the American Legislature.

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INTRODUCTION

The law and baseball have collided over the years at odd intersections. In the year 1959, Richard Thomas Cooper was charged with having strangled to death two women in the state of California. A jury rejected his insanity defense, found him guilty of murder in the first degree, and fixed the penalty at death. After exhausting all appeals, he was eventually put on death row at San Quentin Prison. As tradition requires, he was given the opportunity to speak last words before entering the gas chamber. He passed up the opportunity to reflect upon the sad state of his life or try to make amends for the crimes for which he was about to die. He said instead, I’m very unhappy with the [San Francisco] Giants.¹

When you think of a sports “fan,” this story is not the one that normally pops into your mind. However, if you thought of “insane sports idiot,” then you might be able to picture the person mentioned above. Many people are huge fans of the games and teams that they love, but very few would take it to the level of using a sports connotation as his or her last words. This illustration allows a look into the way that sports impacts many people in the society we live in today. Your boss at work could be giddy for an entire day simply because his team pulled out a great victory the night before, or he could be down and out because his team lost on a last second shot. Whatever the case may be, the American society has seen the emotional rollercoaster of ups and downs from sports fans for centuries and there are no signs of it stopping any time soon.

Not only have sports impacted the people in our society, but it has even gone as far as determining certain pieces of legislation passed in our national and state legislatures. It is known as the “sports effect,” the world of sports has greatly impacted American laws and legislation throughout the years. Conversely, American laws and legislation has also impacted the sports community. The outcomes can range from statutory effects, such as the Selective Training and Service Act of 1940, to judicial decisions coming from U.S. courts, to even Congressional probing into different aspects of sports. This paper will survey the different ways that both

government and sports have played on one another as the years have passed by. Many things would have been different if not for sports in the American society.

I. GOVERNMENTAL IMPACTS ON SPORTS

A. The Selective Training and Service Act of 1940

The year 1940 marked one of the first times in United States history that Americans saw a governmental action directly influence a sport that was held dearly to so many. At the outset of the European conflict in 1939, the majority of Americans felt a strong sense of isolationism. They were adamant about staying out of any war efforts that were beginning to mature in Europe and for good reason. The United States military was in no shape to fight a war abroad; the Army was clinging to life support with only a paltry 240,000 men who were equipped and ready to fight, while the Army Air Corps boasted only 20,000 men and a thin collection of airplanes that could handle the wear and tear of a war. Only the Navy, with its fleet of 82 warships, could be considered ready to fight a battle overseas. Americans felt that fighting a war would be a massacre and shed the blood of too many American soldiers; however, an attack on Pearl Harbor transformed this American mindset and catapulted the nation into the war in Europe. This event would not only change many of the family dynamics in American society, but would also play a part in decimating the thriving sports environment in the United States.

As the war in Europe progressed and the Japanese became more territorial in the Pacific, President Franklin Roosevelt’s regime grappled with the possibility of being forced to go to war.

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3 Id.
4 Id.
5 Id.
Roosevelt and Congress’ solution was to bolster the numbers of the United States military. The first step to increasing the numbers of the military came in early September of 1940 when Congress enacted and President Roosevelt signed the Selective Training and Service Act, better known as the “draft.” The Selective Training and Service Act set forth that “every American male, of the age of twenty one or over, are required to register for twelve months of military service to ensure the independence and freedom of the United States.” This piece of legislation would be responsible for placing nearly two million men in uniform by the end of 1941.

The draft would change almost every household in America and would subsequently hinder the sports culture that was experiencing some of its greatest times in history. The most notable sport that was affected by the draft would be baseball. Baseball was at a pinnacle in 1941: Ted Williams batted .406, “Joltin’ Joe” DiMaggio had a hitting streak of fifty six consecutive games, Lefty Grove at the age of forty one had achieved his 300th career win, and Brooklyn Dodger’s catcher Mickey Owen channeled his inner Bill Buckner (although Owen’s mishap was forty five years prior to Buckner’s) and cost the Dodger’s the World Series title by mishandling a pitch. It would be after this great season that the baseball landscape would be changed greatly with many men relinquishing the title of “ballplayer” for the title of “Private.”

The first major leaguer to be drafted into World War II would be Philadelphia Phillies pitcher, Hugh “Losing Pitcher” Mulcahy. Mulcahy earned his nickname by losing seventy six games as a starting pitcher between the years of 1937 and 1940. When asked by The Sporting

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6 Id.
7 Selective Training and Service Act, 54 Stat. 885 (1940).
8 Id.
10 Id.
11 Id.
12 Id.
News about being drafted into the military, he replied, “…my losing streak is over for the duration, I’m on a winning team now.”\textsuperscript{13} His draft notice came on March 8, 1941 and he was required to report immediately to Camp Devens, Massachusetts.\textsuperscript{14} Shortly after Mulcahy’s induction into the military, Detroit Tiger All-Star Hank Greenberg was drafted on May 7, 1941.\textsuperscript{15} Greenberg was known to the baseball world as “Hammerin’ Hank” for his feat of thirty eight homeruns in 1938.\textsuperscript{16} Greenberg forfeited his $55,000 yearly salary for a $21 per month Army pay and reported to Fort Custer, Michigan.\textsuperscript{17} The draft was blind to the fact that these baseball players were in the prime of their careers and accomplishing a great deal on the diamond. A baseball player could be batting .300 with 30 homeruns or batting .030 with no homeruns, it didn’t matter, he was now part of a bigger fight than the one played between the chalk lines. Now he was fighting for his country. Many men carried the same attitude as Billy Southworth Jr. about their fate in the military: Southworth said, “I think it’s my duty to enlist because they’re going to need us…my baseball career can wait.”\textsuperscript{18}

Pearl Harbor and Hitler’s declaration of war on the United States on December 11, 1941 outraged the American public.\textsuperscript{19} Those baseball players that the draft and first wave of enlistments had not yet claimed would now surely be on their way to war. Bob Feller, a twenty three year old budding pitching prodigy and future hall of famer with the Cleveland Indians, would see this time as his calling to join the ranks of the military. Unlike Feller, many of those who were shipped off to fight knew that their days as a baseball player were effectively over and

\textsuperscript{13} Id.  
\textsuperscript{14} Id.  
\textsuperscript{15} Gary Bedingfield, \textit{Baseball in Wartime: Baseball in World War II}, at 1.  
\textsuperscript{16} Id.  
\textsuperscript{17} Id.  
\textsuperscript{18} Id.  
that their enlistment meant that their professional careers were coming to an abrupt end. Hank Greenberg proclaimed, “this doubtless means I’m finished with baseball.”

The issue in the months following the United States’ entry into war became whether baseball could weather the storm of World War II and survive to be played in the war’s aftermath. Americans feared that their favorite pastime also had been shipped away to fight the war in Europe. However, these fears were put to rest when President Roosevelt wrote the “Green Light” letter in early January of 1942 to baseball’s commissioner, Kenesaw Mountain Landis. In response to Landis’ decision of potentially stopping baseball, President Roosevelt wrote: “I honestly feel that it would be best for the country to keep baseball going.” The President knew that baseball could provide entertainment for the American people during the wartime and even though baseball would be forced to use older players, baseball’s popularity “would not be dampened.” Not only was the consideration of the public at debate underneath the possibility of stopping baseball, but the soldiers overseas pleaded for the continuance of baseball while they were gone. Private John E. Stevenson wrote, “Baseball is part of the American way of life. Remove it and you remove something from the lives of American soldiers, and sailors. For the morale of the soldier and the morale of America itself, keep ‘em playing.” It is at this point in history that it becomes evident that sports are not merely a game played by many for fun, but also provide an important thread in American culture.

Neither fighting in World War II nor the Selective Training and Service Act were seen by the baseball players as a forceful measure by the United States government, but was heralded as

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21 Id.
22 Id.
23 Id.
24 Id.
an opportunity for them fight for a country they believed in and that had given them so many opportunities in the past. Over 500 major league players swapped their cleats and uniforms for the boots and starched khakis of the United States military. 25 Ted Williams, Joe DiMaggio, Stan Musial and a host of other high profile players traded fly balls for flying planes or shooting a ball to the right field gap for shooting a gun at German soldiers. Baseball fluttered, but survived to see future seasons. Many sports were altered by the statutory effects of the Selective Training and Service Act of 1940, but none were as close to the nation’s pulse as America’s favorite pastime: baseball.

B. Racial Barriers and Sports

This section is broken into three sections in order to track the progress of racial issues in sports over the years. The first section glances at Jim Crow laws and Plessy v. Ferguson, which both played a role in the way sports were played and regulating who could play for different sports teams. The second section will look at several African American athletes, such as Jesse Owens and Joe Louis, who were responsible in beginning the trend of integration in American sports. In the third section, the impact of Civil Rights on sports will be examined. This time period will allow for several milestones, beginning with the 1968 Mexico City Olympics protest and then to the integration of Alabama football in the South. These milestones will be integral in beginning the rocky transition into the integration of sports. Trending from Jim Crow laws to the integration of Alabama football would often be a trying road, but would allow for one of the greatest transformations in American history of both the American government and the American sports landscapes.

25 Id.
1. Jim Crow Laws

From the 1880’s into the 1960’s, a majority of American states enforced segregation through “Jim Crow” laws. These laws were not in place and enforced just in the South, but ranged from Maine to California and from Minnesota to Texas. The Jim Crow laws allowed States to impose legal punishments on people for comingling with different races. The most common statutes that plagued the Country dealt with inter-racial marriage and the separation of black and white people in all public and business settings.

Alabama was no different than any other state during this time period when it came to the policies of keeping all races segregated from each other. Some of Alabama’s Jim Crow statutes would not even allow a black man and white man to “play together or in the same company with each other at any game of pool or billiards” or allow for black and whites to eat in the same restaurant “unless it was divided with a solid partition.”

This racially motivated legislation affected the sport’s community in many different ways. During this time period, the decision handed down by the U.S. Supreme Court in Plessy v. Ferguson held that different races were to be segregated and exist in a “separate but equal” manner. This meant that black and white Americans could not compete on the same team or even against one another on separate teams. American society placed a stigma on the black and white races that it would not allow them to fathom a way of life involving the integration of races. However, as the 1940’s began, a grumbling to cease segregation amongst certain Americans would get the ball rolling towards the integration of the sport’s world.

27 Id.
28 Id.
29 Plessy v. Ferguson, 163 U.S. 537 (1896).
2. Early Integration in Sports

There were several major precursors to the integration of the American sport’s culture. The first came at the 1936 Olympic Games in Berlin, Germany when Jesse Owens brought home four gold medals in track and field.\textsuperscript{30} Owens’ victory in Germany was not only viewed as a victory over the Nazi infested Germany, but also as a victory by an African American athlete on a global stage.\textsuperscript{31} Shortly after Owens triumph in the German Olympics, Joe Louis, an African American boxer, played a significant role in the initial struggle to end segregation in American sports. In 1938, Louis stepped in the ring to fight the German heavyweight Max Schmeling and reigned victorious with a knockout.\textsuperscript{32} Like Owens, Louis garnished the praise of many Americans for his feat against a foreign opponent while the whole world was watching.\textsuperscript{33}

The example that many are familiar with and which has become the true embodiment of the movement to breaking the racial barrier in American sports is none other than the legendary Jackie Robinson and his everlasting impact on Major League Baseball. Robinson directly changed “America’s pastime” forever in 1945 when he was given the opportunity by the Brooklyn Dodgers vice president, Branch Rickey, to be a part of the all-white Dodgers organization.\textsuperscript{34} In the face of the soaring degrees of racial abuse he was forced to endure, Robinson overcame it all and made his first major league start in 1947.\textsuperscript{35} This made Owens, Louis, and Robinson responsible for taking the first swings at the racial barrier in American sports.

\textsuperscript{31} Id.
\textsuperscript{32} Id.
\textsuperscript{33} Id.
\textsuperscript{35} Id.
3. Civil Rights and Sports

The Civil Rights time period in American history is one of the most revolutionary movements that our country has ever seen. This movement began a transition that allowed for black and white athletes to compete with one another, as well as compete on the same team. The shift in the American way of life and thought process created a conversion from racial segregation to racial integration in the American society and the American sports world. It is important to see the beginning point in certain judicial decisions and governmental policies, such as *Brown v. Board of Education* and the Civil Rights Act of 1964, in order to appreciate the progress that was made in American sports.

Despite the initial strides that some African American athletes were making in sports, the American public was much slower to embrace the movement of integration. However, the Supreme Court made significant progress towards integration in 1954 when it handed down the decision of *Brown v. Board of Education of Topeka*.\(^{36}\) *Brown* was an action brought by African American plaintiffs who wanted to be admitted to public schools on a non-segregated basis.\(^{37}\) The Court, lead by Chief Justice Earl Warren, held that: “segregation of children in public schools solely on the basis of race, even though the physical facilities and other tangible factors may be equal, deprives the children of the minority group of equal educational opportunities, in contravention of the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution.”\(^{38}\)

Following the *Brown* decision by the Supreme Court, the United States Congress joined the sentiments of the Court by passing subsequent legislation to combat racial segregation in


\(^{37}\) *Id.*

\(^{38}\) *Id.*
American society. Subsequently, Congress passed the Civil Rights Act of 1964, the Voting Rights Act of 1965\(^{39}\), the Immigration and Nationality Service Act of 1965\(^{40}\), and the Fair Housing Act of 1968\(^{41}\). Of all of these pieces of legislation, the Civil Rights Act of 1964 was the landmark legislative attempt to “improve the quality of life for African Americans and other minority groups.”\(^{42}\)

Title I of the Act “bars unequal application of voter registration requirements.”\(^{43}\) Title II of the Act “outlaws discrimination in hotels, motels, restaurants, theaters, and all other public accommodations engaged in interstate commerce.”\(^{44}\) Title IV of the Act “authorizes the withdrawal of federal funds from programs which practices discrimination.”\(^{45}\) Title V of the Act “outlaws discrimination in employment in any business exceeding twenty five people and creates the Equal Employment Opportunities Commission.”\(^{46}\) Title VII is the cornerstone of the Act and its application has probably played the most significant role in the sports community. This Title strictly “prohibits discrimination against an individual because of his or her association with another individual of a particular race, color, religion, sex, or national origin.”\(^{47}\)

The passage of such racially based legislation affected the American public, but also spilled over into the sport’s world which affected the way games had been played in the past. In turn, the integration of sports in some instances was not a smooth transition. Congress’ passing


\(^{40}\) Immigration and Nationality Service Act, Pub. L. 89-236 (1965) (opened entrance to the United States to immigrants other than traditional European groups).

\(^{41}\) Fair Housing Act, 42 U.S.C. 1983 (1968) (banned the discrimination in the sale or rental of housing).


\(^{43}\) Id.

\(^{44}\) Id.

\(^{45}\) Id.

\(^{46}\) Id.

\(^{47}\) Id.
of the 1960’s legislation did not suddenly extinguish the deep rooted, racially motivated feelings of Americans as Congress hoped it would. Many people still felt as though every facet of American culture, including sports, should include the segregation of the races.

4. 1968 Mexico City Olympics

A milestone in the Civil Rights movement, as well as evidence of the rough progression of integration came during the 1968 Mexico City Olympic Games.\textsuperscript{48} It was there that African-American sprinters, Tommie Smith and John Carlos, raised their black-glove-covered fist in the air while on the medal podium.\textsuperscript{49} Smith and Carlos were teammates at San Jose State University and had secretly planned the non-violent protest to hopefully “bring attention to the fact that America’s civil rights movement had not gone far enough to eliminate the injustices black Americans were facing.”\textsuperscript{50} Smith later commented that he raised his right fist to represent black power in America and Carlos’ raised his left fist to represent the unity of black America.\textsuperscript{51} The left-right fist combination symbolized the arch of unity and power in America and the black scarf, black socks, and no shoes were to represent the black poverty in America.\textsuperscript{52}

Many Americans felt that the political protest had no place in the Olympic Games, but one thing was certain: Smith and Carlos characterized an emotional country embattled in racial turmoil that had yet to address the racial demons that haunted it. The Mexico City Olympic protest showed the signs of the tough road that the American society and sports culture was forced to face in order to integrate its ways of the past. However, Americans witnessed a sign of

\textsuperscript{49} Id.
\textsuperscript{50} Id.
\textsuperscript{51} Id.
\textsuperscript{52} Id.
glimmering hope in the early 1970’s in a sport that reigns superior in the South and much of the country: college football.

5. Impact on College Football: The Game that Changed the Game

In 1963, the governor of Alabama, George Wallace physically blocked the entrance of the University of Alabama’s Foster Auditorium to prevent two black students, Vivian Malone and James Hood, from enrolling at the University.\(^53\) Governor Wallace vowed, “I draw the line in the dust and toss the gauntlet before the feet of tyranny, and I say, segregation now, segregation tomorrow, segregation forever.”\(^54\) These words depicted the status of not only the educational realm at the University of Alabama, but the athletic realm as well.

By the time the University of Alabama and the University of Southern California lined up on September 12, 1970, nearly every major professional and college sport was integrated.\(^55\) In fact, by 1970 every major league team had black athletes on their rosters.\(^56\) The National Football League re-integrated in the 1950’s with the Redskins being the last team to do so.\(^57\) The National Basketball League had welcomed African American athletes in 1948 after the all-black Harlem Globetrotters beat the NBA champion Minneapolis Lakers, led by all-time great Georg Mikan.\(^58\) As mentioned earlier, Jackie Robinson transcended Major League Baseball’s color barrier in 1947.\(^59\)

\(^53\) Don Yeager, Turning of the Tide; How One Game Changed the South S-15 (2006).
\(^54\) Id.
\(^55\) Id.
\(^56\) Id.
\(^57\) Id. at 12.
\(^58\) Id.
\(^59\) See supra notes 34-35.
College athletics, and especially southern college athletics, proved to move a little slower than professional athletics on the integration issue, but there were definite strides by the 1970’s. March of 1966 saw the almighty all-white Kentucky Wildcats basketball team upset in the national championship game by Texas Western University, an all-black starting unit.\footnote{DON YEAGER, TURNING OF THE TIDE; HOW ONE GAME CHANGED THE SOUTH 13 (2006).} However, Southern college football had been left behind, but that all changed with the opening kick-off of the 1970 season for the Alabama Crimson Tide.

The Crimson Tide travelled to Birmingham to play the University of Southern California in a game that the media billed as “a game between two of college football’s perennial powerhouses.”\footnote{Id. at 8.} Alabama was an all-white team lead by legendary coach Paul “Bear” Bryant, quarterback Scott Hunter, and tailback Johnny Musso while USC boasted arguably the top defense in the nation.\footnote{Id.} Who would have ever thought that neither Alabama’s potent offense, nor USC’s mighty defense would be a factor in the game or in the long term effects this game would have on the game of college football as we know it. The game changer was a young black man by the name of Sam Cunningham, who was built like a tank, weighing 212 lbs. and towering over defenders at 6 feet 3 inches.\footnote{Id.} He entered the game on the fourth play of USC’s first offensive drive and quickly rattled off several long runs and mowing over the Alabama defense like they were boys trying to play with men. USC would end the day by beating Coach Bryant’s boys and Sam Cunningham would rack up 135 yards on only twelve carries. However, the
beating of his Crimson Tide would not be what Coach Bryant took away from the loss. Coach Bryant focused on the manner as to which his team was defeated on that night in Birmingham.

U.W. Clemon, a Birmingham Civil Rights lawyer who had filed a lawsuit against Coach Bryant for failing to integrate Alabama’s football program stated, “This was the game that changed the game…I didn’t go to the game, but many of my African American friends said the opinion of Alabama fans and boosters after the game was universal: we need to get us some black football players. I described it then as a Damascus Road experience for many of them.” Jeff Prugh, a writer for the Los Angeles Times, wrote about overhearing an Alabama fan after the defeat exclaim, “I sure bet Bear [Bryant] wishes he had two or three of them Nigra boys on his team now. They were huge!” In fact, every touchdown that USC scored that September night was scored by an African American player. The dominating performance by those black athletes moved Coach Bryant to recruit black players to don the crimson and white for the University of Alabama football team.

The next year, running back Wilbur Jackson and defensive end John Mitchell suited up for the Crimson Tide and were the first African American players to play for the University of Alabama. An assistant coach for Alabama commented that Sam Cunningham had “done more for racial integration in 60 minutes than had been done in 50 years.” Cunningham and his USC Trojans were responsible for changing the college football landscape in the South. The Alabama-USC game of 1970 was definitely “the game that changed the game.”

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64 Id. at 10.  
65 Id.  
67 Id.  
68 Id.  
69 Id.  
70 Id. at 15.
C. Congressional Probing

Often the people of America utter things such as: “We have the Senate hearings on steroids in baseball, on whether the NCAA BCS Bowl system is fair, and so on. In the meantime, the national debt is sky rocketing, we have millions of illegals living here, and we pretend that BCS and steroids are important,” or “We have spent more time in Congressional hearings on steroids in baseball than we have in discussing this $700 billion rip-off [bailout] of the American people.” It seems as though Congress has all of a sudden become a major player in trying to regulate certain activities within sports and even the way the sports commissioners and administration run the sport. Recently, Americans saw Congress delve into the National Football League when they were investigating “Spygate” and concussions. Utah Senator, Orin Hatch, led Congress into college football by investigating the Bowl Championship Series and its fundamental fairness compared to a football playoff system. Most notably, Congress made itself the authoritative leader in Major League Baseball’s crackdown on steroids and has been embroiled in that debate for years now. Should Congress place itself in the middle of trying to regulate sports? or does Congress have better things to do?

1. The National Football League; Spygate and Head Trauma

The Spygate battle began early September in the first week of the 2007 season when the head coach of the New England Patriots, Bill Belichick, commissioned one of his videotape guys

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to spy on the New York Jet’s defensive signals.\textsuperscript{76} When Commissioner Roger Goodell became aware of the situation, he promptly had the New England Patriots hand over the six spy tapes that had been taken during the game with the New York Jets.\textsuperscript{77} After reviewing the tapes, Goodell insisted that there was no evidence that the Patriots used videotaping in securing an advantage on their opponents and therefore, had the tapes destroyed.\textsuperscript{78} This is when Congress, lead by Senator Arlen Specter, thought the scandal had gone too far and it needed to intervene.

Senator Specter was the top Republican on the Senate Judiciary Committee and an avid Philadelphia Eagles fan.\textsuperscript{79} Belichick and the Patriots defeated the Philadelphia Eagles in the 2005 Super Bowl.\textsuperscript{80} Could the Patriots have used videotaping in the 2005 Super Bowl to get an advantage on the Eagles? Surely Senator Specter was not worried about that game when he proclaimed, “I am very concerned about the facts on the taping, the reasons for the judgment on the limited penalties and, most of all, on the inexplicable destruction of the tapes…the integrity of the game and the league’s antitrust exemption is of great concern to me.”\textsuperscript{81} In a November 15, 2007 letter written on Senator Specter’s Senate letterhead, he pleaded with Goodell to give Congress answers to the investigation and the initial sanctions that were handed down to the Patriots.\textsuperscript{82} There were absolutely no laws broken in the entire Spygate saga or in the disposing of the tapes by Goodell. It can be argued that Commissioner Goodell used bad judgment in destroying the Patriot’s tapes; however the stronger argument might be that Congress needs to worry about bigger issues troubling our nation.

\textsuperscript{76} Mike Fish, Senator wants to know why NFL destroyed Patriots spy tapes (Feb. 1, 2008).
\textsuperscript{77} Id.
\textsuperscript{78} Id.
\textsuperscript{79} Id.
\textsuperscript{80} Id.
\textsuperscript{81} Id.
\textsuperscript{82} Mike Fish, Senator wants to know why NFL destroyed Patriots spy tapes (Feb. 1, 2008).
Aside from Spygate, Congress has also reviewed the head trauma and concussion problem that has been plaguing the NFL. In October 2009, Goodell and the NFL Players Association Executive Director, DeMaurice Smith, were called to sit before Congress in another controversial hearing before House Judiciary Committee.\(^83\) “There appears to be growing evidence that playing football may be linked to long-term brain damage…Surely in an $8 billion a year industry, we can find it within the budget to make sure the players are adequately protected and that any victims of long-term brain disease are fully and fairly compensated.”\(^84\)

Representative John Conyers expressed his feelings to a preliminary study done by Boston University for the NFL that suggested that retired professional football players are reporting higher rates of Alzheimer’s disease, dementia and other memory related issues than the average population.\(^85\) After hearing testimony by former NFL players suffering with brain injuries, many Congressional members felt that complications with the brain could be directly traced to the high impact and brain trauma associated with playing in the NFL.\(^86\)

The head trauma issue as well as the Spygate issue came to Capitol Hill buried under the veil of the need for Congress to review the antitrust exemption given to the NFL by the federal government; however, the antitrust issue seems to come up very rarely. An antitrust exemption issue would surely be fodder for Congressional debate, but coupled with Spygate and concussions as overlying issues, it could be seen as out of the Congressional scope. Many Americans agree with Representative Lamar Smith when he said, “While many of us would say


\(^{84}\) *Id.*

\(^{85}\) *Id.* (statement by Rep. John Conyers) (Rep. Conyers is a Democratic Senator from the State of Michigan and is currently the second longest serving incumbent in the United States House of Representatives).

\(^{86}\) Diana Marrero, *Congress Warns NFL about Head Trauma* (Oct. 28, 2009).
we’re fans of football, Monday morning quarterbacking doesn’t necessarily qualify us as experts…Congress has no business meddling with the NFL.”

2. NCAA College Football and the Bowl Championship Series

Congressman Neil Abercrombie opened up the April 17, 2008 proceedings of the United States House of Representatives by introducing a NCAA Football Championship Equity Resolution. Abercrombie, a Hawaii native, joined with Congressman Simpson, an Idaho native, proposing the Resolution in order to hinder the efforts of the NCAA and the BCS in determining the football National Champion. The resolution would “declare the [Bowl Championship Series] an illegal restraint on trade, and demand that the US Department of Justice take proper actions to investigate and end the unfair BCS system…and encourages the NCAA to establish a true football playoff system to determine the national collegiate football champion in the interest of parity and sportsmanship.”

Senator Abercrombie argued that the Bowl Championship Series was fundamentally unfair and that non-BCS schools are disadvantaged prior to the first kick-off of the season. The BCS contains six automatic qualifying conferences: the Atlantic Coast conference (“ACC”), Big 10, Big 11, Big East, Pac 10, and the Southeastern Conference, all of which send one representative to play in the five BCS bowl games. The non-qualifying conferences fight for the four remaining spots for the games, which are based on rankings, conference standings, and

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87 Id.; Representative Lamar Smith (Rep. Smith is a Republican Senator from the State of Texas and was the Chairman of the House Ethics Committee from 1999-2001).
89 Id.
90 Id.
91 Id.
92 Id.
in some cases are selected by bowl officials. Senator Abercrombie contended that some schools that were not a part of the automatic qualifying conferences did not have a fair chance to play for a football national championship. “Something must be done to ensure that money and opportunity are evenly distributed among all college football programs. Congress should act in the interest of all the athletes, coaches, staff, and supporters to guarantee parity and competition.”

The issue of the BCS resurfaced before Congress in January 2009 when Senator Orin Hatch addressed the Senate about the fundamental unfairness of the BCS and the need for a college football playoff. “Under the BCS system, an unbeaten Utah team was denied an opportunity to even play for a national championship. One has to wonder what more Utah could have done with its season in order to get into the national championship game.” Utah had just beaten the University of Alabama in the BCS Sugar Bowl, but was denied the national championship after Florida reigned victorious over the University of Oklahoma in the BCS National Championship Game. Senator Hatch promised his constituents that he would “rectify the situation” by introducing legislation to remedy the problems with college football.

Could the intentions of Representative Abercrombie, Representative Simpson, and Senator Hatch be brought into question by bringing this issue before Congress in 2007? Hopefully the issues in 2008 and 2009 were not addressed simply because Representative Abercrombie’s home Hawaii football team, Representative Simpson’s home Boise State team, or

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93 Id.
95 Id.
97 Id.
Senator Hatch’s home Utah was denied a national championship in college football? Once again, the issues were brought before the nation’s highest legislative branch under the veil of antitrust issues. Is a college football national champion the antitrust issues that Congress has a duty to protect? I would dare to say that no Congressman in Washington D.C. needs to squander his or her valuable time with college football issues given the state of our government now. College football has implemented its own governing body to deal with its issues and should ultimately be settled within the college football executive ranks.

3. Major League Baseball and Steroid Use; The Mitchell Report

Congress decided to take a strong stand on the use of anabolic steroids by passing the Anabolic Steroids Control Act of 1990 made the use of steroids in America illegal.\(^99\) It was within this regulation that Congress scheduled steroids as a schedule III controlled substance, which placed steroids in the same category as amphetamines, methamphetamines, opium, and morphine.\(^100\) By passing the Anabolic Steroids Control Act of 1990, Congress allowed itself the free reign to regulate and monitor the ever increasing steroid problem in American sports.

The most in depth and scrutinized portion of Congressional probing into sports in the past decade came in the early 2000’s and dealt with the issue of steroids used in Major League Baseball (“MLB”). This topic has been hotly debated in Congress for years and has yet to be resolved. Much of the debate has hinged on the implementation of an adequate drug-testing policy to police the players involved in the MLB and to make sure that performance enhancing drugs are not used. Many remember the homerun chase by Mark McGwire and Sammy Sosa in

\(^{100}\) Id.
1998 as they both were in pursuit of Roger Maris’ single season homerun record.\textsuperscript{101} Until the early 2000’s no one could fathom that the use of performance enhancing drugs enabled McGwire to break Roger Maris’ homerun record or that steroids enabled Roger Clemens to be the dominate pitcher he had become.

In a July 2002 speech before the United States House of Representatives, Congressman Billy Tauzin of Louisiana addressed Congress urging them to implement a mandatory steroid testing program for Major League Baseball.\textsuperscript{102} He stated, “The men who have played this game [baseball], our national pastime, have inspired us all with their athletic accomplishments as well as their human achievements. The list of memorable events and remarkable feats of athleticism are long…Baseball is truly the all-American game, one that carries special meaning for rich and poor and people from all walks of life. But there is a dark cloud over the game.”\textsuperscript{103} He continued by declaring, “People have spoken quietly about steroid abuse in baseball for the past decade or so, but there was no steroid testing, it was only talk. Now we’re told that up to half of all baseball players are using steroids…Now is not the time for America’s pastime to disappoint its fans or set a bad example for our youth.”\textsuperscript{104} Congress took this opportunity to roll up their sleeves and try to suppress the steroid issue that plagued the MLB and had begun to filter down to high school athletes all over the nation.

Steroid use in baseball was met head on by the Senator John McCain from Arizona.\textsuperscript{105} Senator McCain was not only an intense baseball fan, but he was also the chairman of the

\textsuperscript{103} Id.
\textsuperscript{104} Id.
Commerce Committee, which exercised oversight authority over professional sports. He urged Congress to see the great need for adopting a drug testing program in the MLB and the potential consequences for demanding anything less than clean professional sports. McCain stated, “the failure to insist on stringent drug testing policies damages the integrity of the games and calls into question records set by those suspected of using performance enhancing drugs.” Congress agreed with McCain and sought the efforts of former Senate Majority leader George Mitchell to lead the investigation into performance enhancing drug abuse in Major League Baseball.

Senator Mitchell conducted a twenty one month investigation and on December 17, 2007, he released the “Mitchell Report.” This 409 page report covered four distinct areas: (1) the history of drug use in baseball (including past media reports), (2) an assessment of blame for the era, (3) evidence about specific players (89 players mentioned in the report) use of drugs, and (4) an assessment of MLB’s Drug Policy and recommendations as to how Major League Baseball ought to move forward with its Joint Drug Prevention and Treatment Program.

In the first section on the history of drug use in baseball, Senator Mitchell narrowed in on the early indications of steroid use in the years of 1988-1998. He mentioned rumors that began to seep into the public eye in the late 1980’s with the ballooning of Jose Canseco and Lenny Dykstra and later when an “Andro” bottle was found in Mark McGwire’s locker in 1998. He concluded this section that steroid use affected Major League Baseball well before the recent

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106 Id.
107 Id.
108 Id.
109 Id.
111 Id.
112 Id.
113 Id.
allegations.114 In assessing the blame for the steroid abuse in section two, he pointed a finger directly at Major League Baseball and blamed them for the actions that transpired.115 “The use of steroids in Major League Baseball was widespread. The response by baseball was slow to develop and was initially ineffective. For many years, citing concerns for the privacy rights of the players, the Players Association opposed mandatory random drug testing of its members for steroids and other substances.”116

Later in section two, he continued by expressing the fact that the players that took the steroids were responsible for their actions, but they did not act alone: “…everyone involved in baseball over the past two decades- Commissioners, club officials, the Players Association, and players- share to some extent in the responsibility for the steroid era. There was collective failure to recognize the problem as it emerged and to deal with it early on. As a result, an environment developed in which illegal use became widespread.”117

Section three of Senator Mitchell’s report was the most anticipated because it was not only the most detailed part, but here Senator Mitchell cited to specific player’s use of performance enhancing drugs.118 This 140 page section contained many players that, prior to the Report, were not linked to steroids, such as Eric Gagne, Mo Vaughn, Chuck Knoblauch, David Justice, and most notably Roger Clemens.119

Finally, section four of the report centered around Senator Mitchell’s recommendations to the MLB on their current drug policy and how they should move forward with the drug testing
policy. He recommended that the drug policy should be independent, should be transparent, should be adequately tested year round and be unannounced, should be flexible enough to best practices as they develop, continue to respect the rights of the players, and the program should have adequate funding.

In the aftermath of the Mitchell Report, Major League Baseball and its players faced many challenges, such as gaining back the trust of the fan base and eliminating the scars left by the steroid era in baseball. The most public denial of the Senator Mitchell’s report came from Roger Clemens, who adamantly denied the allegations against him that he used steroids during his career. Clemens went so far as to file suit against Brian McNamee, his former trainer, who divulged the information used in the Mitchell Report. Clemens was unable to win his case, but later insisted on a hearing in front of Congress. Congress granted his hearing, and Clemens answered the question about the use of his use of steroids by stating, “Let me be clear, I have never taken steroids or [human growth hormones].” Not only did Clemens not wipe away the doubt of his steroid use, but he perjured himself in the process leading to his August 2010 indictment for lying to Congress.

The Mitchell Report, which was produced upon Congress’ request to Senator Mitchell, truly changed Major League Baseball and had an effect on younger athletes facing the options gained or lost by steroid use. Without the Mitchell Report, the rampant use of steroids and other performance enhancing drugs could have influenced all aspects of baseball and sports for years to come. Congressional probing in this instance might have been justified, but still there are
those who refuse to think that Congress has any place in sports. The underlying issue becomes whether Congress’ probing into any athletic arena is justified or simply a waste of time that would be better spent serving the nation as a whole?

Politicians have figured out that the quickest path to easy publicity and getting noticed is to take on sports issues. Why settle for C-SPAN when you get major coverage from ESPN? What exactly can the public gain from Congressional hearings on the Spygate issue? Are the hearings simply to set an example for American kids who might steal signals at their Pop Warner games or a tool to distract Americans from rising gas prices, the struggling economy and the million more important issues?

Stephen Ross, the director of Penn State’s Institute for Sports Law Policy, put it nicely when he said, “Congress has a legitimate reason to conduct hearings on a number of issues in sports, the question is, what are they looking at? Steroids are a legitimate public problem. Whether a mass on Roger Clemens’ butt is evidence of steroid use is not.” It is hard to believe that some of the Congressional Senator’s motives are pure. Congressmen are put in the position they hold by the people to serve the public’s needs and next time an issue comes across their desk dealing with sports, maybe instead of jumping in the ring immediately because of the good press that will come from it, they should ask themselves the question of whether this issue is a public issue.

Like Stephen Ross said, steroids are a public problem; however, the BCS and Spygate hardly qualify as creating such a public effect on Americans that Congress should be involved.

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126 Id.
127 Id. at 2
“We love a good conspiracy, but the only way Spygate resembles Watergate is how long it has dominated the news. Bill Belichick is not Richard Nixon. He shouldn’t be headed to Washington.” \textsuperscript{128}

II. SPORTS IMPACT ON GOVERNMENT

Throughout the 1900’s and early 2000’s, sports have impacted the United States Congress in Washington, D.C. The impact does not simply reach the level of Congressional oversight, as mentioned above, but has reached the bounds of being the centerpiece for legislation to be passed. It seems as though over time, a larger portion of the sports culture has been allowed to slowly creep into the halls of Congress and provide a spirited backdrop for Congressional proceedings. Are Congressmen bigger sports fans today than in early time periods of American history or is the legislature just more willing to let their inner sports enthusiasm affect them in their professional capacity? In surveying the historical timeline of sports related legislation and judicial decisions, that question could become much easier to answer.

A. The Sims Act

One of the first times that Congress involved itself directly in a sports related matter came when Congress passed the Sims Act. \textsuperscript{129} As stated earlier in this paper, racial discrimination tensions were at it’s their peak during this era of American history. It was the hope of many Americans to suppress the activities and successes of minorities at any cost. Early in the twentieth century, Jack Johnson was the premier boxer of the early 20\textsuperscript{th} century and arguably the best boxer ever to lace his gloves up and step into the ring. He was triumphant in nearly every

\textsuperscript{128} \textit{id.}
match that he competed in, but throughout his career he had been unsuccessful in knocking out the “color line” that the American society had been fighting.\footnote{Id.}

In 1913, the Federal Bureau of Investigation (“FBI”) convicted Johnson for violating the “White Slave Traffic Act,” which prohibited the transportation of white women across state lines for “immoral purposes.”\footnote{Id.} Johnson’s violation stemmed from the relationships he conducted with white women while traveling across state lines.\footnote{Id.} The “White Slavery Act” was passed in an attempt to police the mobility of interracial behavior.\footnote{Id.} The FBI succeeded in categorizing Johnson’s behavior as “white slavery” due to the reinvigoration of white supremacy gathered amongst those highly situated in American government.\footnote{Id.}

However, Congress not only limited the movement of Johnson himself, they also extended it to the purchasing and selling of his boxing films. The Sims Act placed a ban on the interstate transfer of boxing films.\footnote{Id.} The real target of the legislation was Johnson and keeping the productions of his fights pummeling white opponents off the commercial market.\footnote{Id.} This piece of legislation was Congress’ direct answer to the interracial problem associated with Johnson’s behavior. The Sims Act was a disgraceful attempt by Congress to regulate racial barriers, but it did mark the first time that sports directly affected a legislative agenda.

B. Title IX of the Education Amendments of 1972

Title IX has been championed by many as Congress’ greatest impact in sports.\footnote{Kevin J. Rapp, Forced to Punt: How the Bowl Championship Series and the Intercollegiate Arms Race Negatively Impact the Policy Objectives of Title IX, Indiana L.J. 80, 1167.} It provides that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”\footnote{20 U.S.C. § 1681(a) (1972).} The statute is directed at discrimination throughout educational institutions, but has a significant impact on intercollegiate athletics within those educational institutions by making the distribution of athletic scholarships proportional.\footnote{Kevin J. Rapp, Forced to Punt: How the Bowl Championship Series and the Intercollegiate Arms Race Negatively Impact the Policy Objectives of Title IX, Indiana L.J. 80, 1167.}

Many educational institutions scoffed at the passing of Title IX because it forced revenue producing athletic programs to be moved aside in order to make way for equal opportunities for female athletes.\footnote{Id.} Therefore, many athletics programs throughout the Country tried to exclude themselves in claiming that they were not direct recipients of federal funding.\footnote{Id.} This school of thought was even backed by the U.S. Supreme Court when it ruled in \textit{Bell v. Grove City} that Title IX protections “extended only to those individual educational programs or activities that are direct recipients of federal funds.”\footnote{Bell v. Grove City, 465 U.S. 555 (1984).} Congress was forced to deal with the ruling by the Supreme Court by passing the Civil Rights Restoration Act of 1988, which broadened the scope of Title
IX to reach all facets of a covered entity’s educational programs or activities, directly funded by the federal government or not.\textsuperscript{143}

In 1992, the Supreme Court, in\textit{ Franklin v. Gwinnett County Schools}, gave Title IX a bolster when the Court held that plaintiffs could recover monetary damages for an institution's intentional discrimination.\textsuperscript{144} Again in 1993, the federal courts supported the implementation of Title IX by rendering a decision in\textit{ Cohen v. Brown University}\textsuperscript{145} which created the judicial framework that was to be applied in athletic participation cases.\textsuperscript{146} In 2002, President George W. Bush created the Secretary’s Commission on Opportunities in Athletics to study the effects of Title IX on college athletics and in 2003, the Office for Civil Rights released a guidance policy for Title IX compliance within college athletics.\textsuperscript{147} The federal government has continuously stayed involved in the furthering of Title IX and its position to create equality in sports.

Title IX has garnered much criticism and evolved greatly since its inception in 1972, but it continues to achieve great success in the realm of athletics. On May 22, 2009, a federal court in Connecticut granted a preliminary injunction in the case of\textit{ Biediger v. Quinnipiac University} which evidences the gender based discrimination that is still lurking around in today’s sports environment.\textsuperscript{148} \textit{Biediger} was filed by current and incoming members of the university varsity women’s volleyball team to enjoin Quinnipiac University from eliminating the women’s volleyball team as a varsity sport.\textsuperscript{149} The University announced in March 2009 its intentions to cut two men’s athletic teams as well as the women’s volleyball teams because of budgetary

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\textsuperscript{144} \textit{Franklin v. Gwinnett County Schools}, 112 S. Ct. 1028 (1992).
\textsuperscript{145} \textit{Cohen v. Brown University}, 991 F.2d 888 (1st Cir. 1993).
\textsuperscript{147} \textit{id.} at 3.
\textsuperscript{148} \textit{Biediger v. Quinnipiac University}, 616 F. Supp. 2d 277 (D. Conn. 2009).
\textsuperscript{149} \textit{id.}
\end{flushright}
restraints.\textsuperscript{150} The University also announced its desire to add a women’s competitive cheer team in order to maintain compliance with Title IX.\textsuperscript{151} The Complaint alleged that the University’s plan did not meet the compliance requirements of Title IX and that a preliminary injunction should be entered to prevent the elimination of the volleyball team.\textsuperscript{152}

A Connecticut district court held that the elimination of the volleyball team would cause irreparable harm and that there was a high likelihood that the University had not provided genuine athletic participation opportunities in substantial proportionality to the gender composition of its full-time undergraduate enrollment.\textsuperscript{153} Therefore, the district court issued a preliminary injunction to prevent the university from eliminating the volleyball team pending the court’s decision of the merits of the plaintiff’s claims.\textsuperscript{154}

The 2009 decision in \textit{Biediger} shows that there is still the existence of gender discriminatory actions in athletics today. Gender discrimination is a problem that faces many athletes in our revenue hungry society and Title IX provides relief to those athletes facing such discrimination. Title IX is as alive today as it ever has been and continues to ensure that all athletes are provided fair treatment in the sports arena. Athletics should be able to be enjoyed by anyone who wishes to participate in them and no one should fear discrimination just because of their gender. Athletes should be judged on their heart, not on their exterior.

\textsuperscript{150}Id. at 278.  
\textsuperscript{151}Id.  
\textsuperscript{152}Id. at 279.  
\textsuperscript{153}Id.  
\textsuperscript{154}616 F. Supp. 2d at 298.
C. The Amateur Sports Act of 1978

The United States Olympic Committee ("USOC") is a corporation that was created and granted a federal charter by Congress in 1950.\textsuperscript{155} The 1950 action by Congress was revised with the Amateur Sports Act of 1978, which acts as the cornerstone legislation in the governing and legal protection for Olympic athletes.\textsuperscript{156} This Act established a United States Olympic Committee and provided for national governing bodies for each Olympic sport.\textsuperscript{157}

The Olympic Committee has exclusive jurisdiction and authority over participation and representation of the United States in the Olympics, as well as chartering the governing body for each sport (i.e. USA Swimming, United States Ski Team, and USA Track & Field, etc.).\textsuperscript{158} The governing body of each sport will then establish the rules for selecting the United States Olympic team and the promotion of amateur competition in that particular sport.\textsuperscript{159} Other effects of the Act include: requirement that active athletes represent 20% of the voting power of any board or committee, provisions ensuring Olympic athletes with due process and appellate rights concerning eligibility disputes, and gives exclusive rights to the use of the word "Olympic" to the Olympic Committee empowering them to sue other organizations for usage of "Olympic."\textsuperscript{160}

The United States Olympic Committee’s power has been questioned several times since its inception, but the first doubt came in 1980 in \textit{DeFrantz v. U.S. Olympic Committee}.\textsuperscript{161} In this case, twenty five U.S. Olympic athletes and one member of the USOC Executive Board filed suit against the USOC and tried to receive an injunction to bar the Olympic Committee from carrying

\textsuperscript{155} Pub. L. No. 81-805, 64 Stat. 899 (1950).
\textsuperscript{157} \textit{id.}
\textsuperscript{158} http://www.teamusa.org/ (last visited Sept. 22, 2010).
\textsuperscript{159} \textit{id.}
out its decision not to send an American team to participate in the 1980 Summer Olympics in Moscow.\textsuperscript{162} Several months prior to the USOC resolution, the Soviet Union launched an invasion on Afghanistan which President Jimmy Carter called “a threat to the security of the Persian Gulf area as well as a threat to world peace and stability.”\textsuperscript{163}

Due to the Soviet Union’s actions and President Carter’s move to take direct sanctions against the Soviets, the USOC subsequently moved to boycott the Moscow summer games.\textsuperscript{164} The Court ultimately found for the USOC and held that the USOC is authorized by the International Olympic Committee (“IOC”) to represent the United States in all matters relating to participation in the Olympic Games.\textsuperscript{165} The Legislature and the courts have divested all Olympic decisions and power to the USOC and it decisions dictates all Olympic participation by the United States.\textsuperscript{166}

D. The Sports Agent Responsibility and Trust Act of 2002

Congress enacted the Sports Agent Responsibility and Trust Act in an attempt to try to control the relationship that sports agents have with student athletes. The issue of illegal dealings by agents with student athletes has overshadowed many great collegiate players’ careers and continues to plague the collegiate athletic scene. Recently a controversy involving Reggie Bush and the University of Southern California has been at the forefront of sports related media reports. The accusations against Bush are that he (or his family) received hundreds of thousands of dollars from an agent while playing college football at the University of Southern California. Bush is not the first high profile college athlete to tread down this road. Many athletes, such as

\textsuperscript{162}Id.
\textsuperscript{163}Id.
\textsuperscript{164}Id.
\textsuperscript{165}Id.
\textsuperscript{166}Id.
Antonio Langham and Andre Smith of the University of Alabama have preceded him and been accused of such behavior.

In a September 21, 2010 article in The Birmingham News, Charles Barkley admitted that he took money while he was playing basketball at Auburn University. Barkley responded to Dan Patrick’s question about receiving benefits by stating, “I got money from agents when I was in college and I went in the ’80s. A bunch of players -- most of the players I know -- borrowed money from agents. The colleges don't give us anything. If they give us a pair of sneakers, they get in trouble. Why can't an agent lend me some money and I'll pay him back when I graduate?” Barkley stated that his solution to the agent situation would be to give college athletes “walking around money.”

Money that is given to the athlete is usually provided in return for the promise to sign with that agent after he graduates. This provides a very lucrative deal for the agent due to the massive amounts of money to be gained by the athlete’s decision. The agent’s behavior is despicable and their actions have been the basis for Alabama head football coach, Nick Saban, calling them “pimps.” Both the sports agent and the athletes conduct created the need for Congress to intervene and pass the Sports Agent Responsibility and Trust Act.

The first part of this Act sets forth that it is unlawful for a sports agent to “directly or indirectly recruit or solicit a student athlete to enter into an agency contract, by giving any false or misleading information or making a false promise or representation; or providing anything of

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168 Id.
169 Id.
value to a student athlete or anyone associated with the student athlete before the athlete enters into an agency contract, including any consideration in the form of a loan, or acting in the capacity of a guarantor or co-guarantor for any debt.”  

Section two "prohibits the agent from entering into an agency contract without first providing a disclosure document,” while section three makes it unlawful for an agent to “predate or postdate an agency contract.”

By enacting this legislation, Congress took significant steps in implementing rules and regulations that sports agents must adhere to when dealing with student athletes. It is important that there are boundaries between the agents and athletes to encourage the fair treatment of the athletes and to deter the agent’s from taking advantage of the uniformed athletes. There is still much to be desired in the enforcement of these rules on the agents. It seems as though the agent always manages to get around the rule by using many different methods, such as employing a third party to contact the athlete so the agent will not have direct contact with the athlete.

There is a real need for the educational institutions and athletic departments, the NCAA, and even the professional leagues to gain control of the agent situation before it gets out completely of hand. There must be consequences for the unscrupulous agents who take unfair advantage of the student athletes. A possible option could be the suspension of the violating agent’s license for a year, in the professional league in which the athlete is involved, if he fails to follow the statutes and regulations in place. The professional leagues will be the entities that have the most leverage to enforce the rules and hopefully they will take the initiative to help with this unfortunate situation.

\[^{171} 15\text{ U.S.C.} \ § 7802 \ (2002).\]

\[^{172} \text{Id.}\]
CONCLUSION

Sports have impacted the American society and the American government in many different ways over the years. Congress has drafted legislation and courts have handed down judicial decisions that have directly affected the way the sports environment exists. On the other hand, sports have been instrumental in influencing certain governmental actions and embroiling many governmental debates on its behalf. Certain parts of American history have provided many different obstacles for the sports world to hurdle, but sports have always survived. In a culture that is dominated by fans cheering for their teams, sports will always play a significant role in the functions of our nation’s government, as well as the government playing a part of sports. Although some sneer at the authority that both government and sports have on one another, it is safe to say that sports will always have a special place in the way that the United States functions.