

Collegiate Athletics Reform: Do-nothing feds complicit in reckless endangerment of institutions of higher education

Clips Guest Commentary

By Frank G. Splitt, 03-15-12

Having heard all of this you may choose to look the other way, but you can never again say that you did not know.—William Wilberforce (1759-1833)

Our guest author provides a follow-up to his previous open letter to his congressman.

Question: What can be requested of a congressional representative that will almost assure no response?

Answer: Consideration of the tax-exempt status of the NCAA cartel's entertainment businesses to help curtail its reckless endangerment of America's institutions of higher education.

This commentary is centered on my Congressman Peter Roskam (R, 6th IL), the highly-regarded Chief Deputy Whip who serves on the House Ways and Means Committee's Subcommittee on Select Revenue Measures. Why my congressman?—because his position and stature allow him to focus effort on getting much-needed reform of the debilitating federal tax system as well as to see that everything is put on the agenda for tax-code reform.

“Everything” should include the tax-exempt status for the NCAA and its sports-entertainment businesses at colleges and universities supporting revenue-generating football and men's basketball programs, as well as for end-of-season bowl games and the NCAA's basketball tournaments. The Congress and the IRS continue to treat the NCAA's tax-exempt status as if it were a well-deserved entitlement.

The February 6, 2012, open letter to the congressman was sent with the aim of initiating a dialogue on the tax-exempt matter with an offer to provide him with historical perspectives on this important but contentious subject as well as answer questions related to my work with Dean Zerbe, the chief tax counsel for Senator Chuck Grassley—the former chairman of the Senate Finance Committee—and staffers for former House Ways and Means Committee Chairman Bill Thomas; see Appendix 1.

There was no response to the letter—prompting a second open letter; see Appendix 2. The letter concludes that more than eight years of effort aimed at engaging the federal government in college sports reform indicate—that no matter how dire the need—reform-minded individuals and organizations can only hope for meaningful corrective action via the courts.

Without such court action, college sports, like a runaway train, will continue to overwhelm everything in its way while the federal government continues to operate in a dysfunctional manner — looking the other way as it supports minor leagues for the NFL and NBA by allowing big-time college athletics to benefit from a lack of oversight, favorable tax policies, and unabashed pandering by its top officials.

Finally, it is not only frustrating to see members of Congress do nothing to provide corrective action to fix the broken status quo of out-of-control college sports, but also disheartening and a great disappointment to have to accept the utter futility of any effort to motivate corrective action by complicit government officials who hold their vested self interests above all else as they persist in overlooking the reckless endangerment of one of America's most precious resources—its institutions of higher education.

Frank G. Splitt is the former McCormick Faculty Fellow of Telecommunications, McCormick School of Engineering and Applied Science, Northwestern University, and Vice President Emeritus of Educational and Environmental Initiatives, Nortel Networks. He is a member of The Drake Group and the College Sport Research Institute's Advisory Committee, University of North Carolina at Chapel Hill, and recipient of The Drake Group's 2006 *Robert Maynard Hutchins Award*. A complete listing of links to his essays and commentaries on college sports reform can be found at <http://thedrakegroup.org/splittsays.html>.

APPENDIX 1: Open letter to Congressman Peter Roskam, February 6, 2012

February 6, 2012

The Honorable Peter Roskam
United States House of Representatives
227 Cannon House Office Building
Washington, DC 20515

Dear Congressman Roskam:

Subject: Federal tax-code reform and the tax-exempt status of big-time NCAA programs

Reference: The College Athletics Clips commentary, "Collegiate Athletics Reform: Most likely up to the courts," <http://www.thedrakegroup.org/Splitt_Courts.pdf>.

The following excerpt from the referenced commentary relates to your discussions at the offices of the *Daily Herald* as reported in "Roskam: Time ripe for tax-code reform, building consensus," <<http://www.dailyherald.com/article/20120130/news/701309738/>>.

Also, although partisan infighting and pre-election-year politics have led to political paralysis that could continue to keep Congress from acting on substantive issues there is always some hope that things will change. House GOP Chief Deputy Whip Peter Roskam (IL, 6th) believes that change can be brought about by building consensus. He pointed to history to suggest that the time might be ripe for major changes, including tax-code reform as he outlined his legislative and political priorities for the year ahead to the *Daily Herald*. Those priorities include guiding House members to consensus.

Roskam also serves on the House Ways and Means Committee's Subcommittee on Select Revenue Measures—a position that allows him to focus effort on getting much-needed reform of the debilitating federal tax system. He said: "What we have right now is a tax code that nobody can defend. The whole concept is to make the tax code more competitive. There's a real opportunity to reform the tax code and that will create jobs and buoyancy."

Perhaps Congressman Roskam will see that everything is put on the agenda for tax-code reform—including the tax-exempt, nonprofit status for the NCAA and the sports entertainment businesses at colleges and universities supporting revenue-generating football and men's basketball programs, as well as for end-of-season bowl games and the NCAA's basketball tournaments.

The efforts of the Rutgers' faculty and Congressman Roskam provide a glimmer of hope beyond the courts for collegiate athletics reform.

As you must know, the questionable tax-exempt status of nonprofits was an abiding concern of Senator Chuck Grassley who has said: "It's obvious from the abuses we see that there's been no check on charities; big money, tax free, and no oversight have created a cesspool in too many cases." That was back in 2004 when he was the chair of the Senate Finance Committee and Dean Zerbe was his chief tax counsel.

Today there is growing concern that the tax-exempt status of the NCAA's big-time (revenue-generating) college sports programs has not only come to be treated as an entitlement—beyond the need for justification and congressional oversight—but also a contributing factor in the uncontrolled growth and corruption of these professionalized sports programs.

By addressing tax-reform in a comprehensive, bipartisan manner, you will create a window of opportunity to revisit former House Ways and Means Committee {HW&MC} Chair Bill Thomas' and The Drake Group's 2006 effort to determine whether these sports programs are truly an amateur enterprise that warrants tax exemption as an educational activity or a profit-making, tax-avoiding commercial enterprise structured to provide the illusion of an educational activity. No matter how justified the reason, an effort to build bipartisan consensus for this determination will evoke protests by many of your congressional colleagues and officials at the NCAA and affected schools, as well as football boosters and fans.

As you well know, overcoming partisan gridlock on entitlement issues will be a daunting task. The failure of the congressional Joint Select Committee on Deficit Reduction to come to bipartisan agreement speaks volumes about related difficulties. Illuminating as well is the troubling situation where vested money interests and the popularity of football-centered entertainment have prevented mitigating action commensurate with the seriousness of the reported threat by medical researchers of long-term mental and physical damage to football players. A good sense of this issue can be obtained from "Catholic silence on football risks" at <<http://ncronline.org/news/people/catholics-silent-football-risks>>.

Finally, as one of your constituents, it would be my pleasure to provide you with historical perspectives on this important but contentious subject as well as answer questions related to my work with Dean Zerbe and staffers for former HW&MC Chairman Bill Thomas.

I look forward to your response.

Respectfully submitted,

Frank G. Splitt
Former McCormick Faculty Fellow
McCormick School of Engineering and Applied Science
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E-mail copies to: The Senate Finance Committee, Senator Dick Durbin, Senator Mark Kirk, Senator Chuck Grassley, Congresswoman Jan Schakowsky, Congressman Bobby Rush, *The Daily Herald*, *The Chronicle of Higher Education*, *Inside Higher Ed*, *The New York Times*, *USA TODAY*, *The Chicago Sun Times*, *The Chicago Tribune*, *The National Catholic Reporter*, *The Wall Street Journal*, *The Washington Post*, *The Associated Press*, *The Christian Science Monitor*, and *College Athletics Clips* among others.

APPENDIX 2: Open letter to Congressman Peter Roskam, March 12, 2012

March 12, 2012

The Honorable Peter Roskam
United States House of Representatives
227 Cannon House Office Building
Washington, DC 20515

Dear Congressman Roskam:

Subject: Washington ignores the need for college sports reforms

Reference: E-mail of February 6, 2012, Subject: Federal tax-code reform and the tax-exempt status of big-time NCAA programs

Appendix: Recent letters to the *Daily Herald*

There has been deafening silence from Washington in response to messages concerning the influence of big-time college sports on the decline in the quality of higher education in America. For example, see:

o "Open letters to the President and his administration," March 17, 2009, at <http://thedrakegroup.org/Obama.pdf> and May 27, 2009, at <http://thedrakegroup.org/Obama2.pdf>

o "Confidence Men".... On Wall Street and College Campuses," at http://www.thedrakegroup.org/Splitt_Confidence.pdf

o "Collegiate Athletics Reform: A Collection of References from the *National Catholic Reporter*," at http://www.thedrakegroup.org/Splitt_NCR.pdf

o "'Academically Adrift' in a Sea of Sports and Mediocrity," http://www.thedrakegroup.org/Splitt_Adrift.pdf

Furthermore, the following books not only make it easy to see how Washington really works, but also provide deep insights into why there has been no support from the White House, the Congress or the Education Department for reforming big-time collegiate athletics.

o *Winner Take All Politics: How Washington Made the Rich Richer--and Turned Its Back on the Middle Class* by Paul Pierson and Jacob Hacker, 2010,

o *Reckless Endangerment: How Outsized Ambition, Greed, and Corruption Led to Economic Armageddon* by Gretchen Morgenson and Joshua Rosner, 2011,

o *Throw Them All Out: How Politicians and Their Friends Get Rich* by Peter Schweizer, 2011.

Notwithstanding your lack of response to my open letter that was included in the referenced E-mail, you might still find the appended letters of interest—especially so if read in the light of the three parts of the commentary "Collegiate Athletics

Reform: Trilogy III," namely: 1) A Call for Federal Intervention, 2) It's Likely up to the Courts, and 3) Evermore Likely up to the Courts. It can be accessed at http://www.thedrakegroup.org/Splitt_Trilogy3.pdf

No matter how dire the need, it appears that those in Congress with the responsibility and authority to act will do nothing to provide corrective action for out-of-control college sports that continue to overwhelm everything in its way. The federal government continues to operate in a dysfunctional manner while demagogic rhetoric abounds. The palpable wall of silence that seems to surround members of Congress, prompted my message to the chief tax counsels for the Senate Finance Committee noted in my letter of March 10, 2012.

What more can be said about a dysfunctional government that allows the reckless endangerment of one our nation's most precious resources?

Respectfully submitted,

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E-mail copies to: The Senate Finance Committee, Senator Dick Durbin, Senator Mark Kirk, Senator Chuck Grassley, Congresswoman Jan Schakowsky, Congressman Bobby Rush, *The Daily Herald*, *The Chronicle of Higher Education*, *Inside Higher Ed*, *The New York Times*, *USA TODAY*, *The Chicago Sun Times*, *The Chicago Tribune*, *The National Catholic Reporter*, *The Wall Street Journal*, *The Washington Post*, *The Associated Press*, *The Christian Science Monitor*, and *College Athletics Clips* among others.

Appendix: The Author's Recent Letters to the Daily Herald

Congress ignoring need for sports reforms (March 10, 2012)

My Jan. 21 letter, "College sports need federal intervention," claimed that intervention by the federal government is the only way to bring about desperately needed reform to help constrain the uncontrolled growth of big-time football and men's basketball programs with its potentially devastating impact on America's colleges and universities.

However, my experience indicates that resolution of the problems brought on by the money-driven corruption in college sports will not come from government officials who seem to abide by their own version of the Hippocratic Oath: Do nothing to harm your chances for re-election. Members of Congress have chosen to do nothing, apparently believing they would violate this "oath" by intervening in college sports. Education Secretary Arnie Duncan put it this way: "If any of us are looking for Congress to solve this, good luck."

No matter how dire the need, those in Congress with the responsibility and authority to act will do nothing to provide corrective action. This, coupled with a palpable wall of silence that seems to surround members of Congress, prompted the following message to the chief tax counsels for the Senate Finance Committee: "Here's my conclusion after more than eight years of effort aimed at engaging the federal government in college sports reform: Reform-minded individuals and organizations can only hope for meaningful corrective action via the courts. Without such action, college sports, like a runaway train, will continue to overwhelm everything in its way while the federal government continues to operate in a dysfunctional manner — looking the other way as it supports minor leagues for the NFL and NBA by allowing big-time college athletics to benefit from a lack of oversight, favorable tax policies, and unabashed pandering by its top officials."

The courts need only follow the money.

College sports need federal intervention (January 21, 2012)

The Daily Herald Editorial Board served their readers well when it said: Kept in perspective, athletics play an important role in college life, ["Keeping bowl fever in perspective," *Our View*, Jan. 3, 2012].

However, the American public's sports fever—stemming from seemingly unbounded love of college sports entertainment at any cost—makes it difficult to maintain this perspective. Worse yet, this sports fever can be readily exploited by skilled marketing professionals to the long-term detriment of the integrity and health of higher education in America.

The incremental cost of such exploitation to build an ever bigger college sports entertainment enterprise, such as advocated by Larry Scott, the Pac-12 Conference Commissioner, amounts to the cost of expanding on a heretofore eminently successful business model. Simply stated, the cost involves the further prostitution of America's already compliant colleges and universities without any requirements for transparency and accountability, as well as with apparently acceptable artifacts of this prostitution— tax-free revenues, unbridled greed, manifold corruption, and blatant hypocrisy.

Based on over eight years of research on college sports reform, my experience indicates that intervention by the federal government is the only way to bring about desperately needed reform to help constrain the uncontrolled growth of big-time football and men's basketball programs with its potentially devastating impact on America's colleges and universities.

Questionable culture in college athletics (November 27, 2011)

Richard Cohen's Nov. 9 column was headlined, "When all seems lost, culture pulls a nation through." True enough, but culture can lead to a nation's downfall as well.

Consider the following. Although cheating, academic corruption, brain injuries, deaths and cover-ups in collegiate athletics can have a disastrous impact on America's citizens, its educational institutions and its long-term vital interests, they certainly don't generate the attention and headlines associated with sex-related scandals. However, the current sex-abuse scandal at Penn State University is not only a mix of both, but also illustrative of the extent to which school officials will go to protect their sports entertainment businesses and coaches.

Some 80 years ago philosopher Alfred North Whitehead wrote that when one compares the importance of education with "the frivolous inertia with which it is treated," it is "difficult to restrain within oneself a savage rage," an apt description of the feelings of those who see collegiate athletics prioritized over academics at schools sponsoring big-time football and men's basketball programs — programs that are not only hugely popular with America's sports-obsessed public but also are government subsidized by virtue of favorable tax policies.

It's all about America's culture. As Cohen writes: Culture "is the most important story of our times."

Note: The title of this commentary was inspired by Gretchen Morgenson's and Joshua Rosner's book, *Reckless Endangerment: How Outsized Ambition, Greed, and Corruption Led to Economic Armageddon*, Times Books, Henry Holt and Company, 2011.