

# College Sports, Education Reform, and Constitutional Era of U.S. History

**1**

Published on 09 September 2011 by [taylorbranch](#) in [College Sports](#), [General](#), [NCAA](#), [Teaching American History](#)

Dear friends and readers:

I have written for *The Atlantic* magazine a short history of college sports in the United States. It will be released on the web next Tuesday, September 13. For more, see below.

Meanwhile, please excuse my low profile over the past year. I have been burrowed away on several new initiatives. For the long term, I have been researching two projected books based in the Constitutional era of U.S. history, which is a significant and enthralling jump back in time for me.

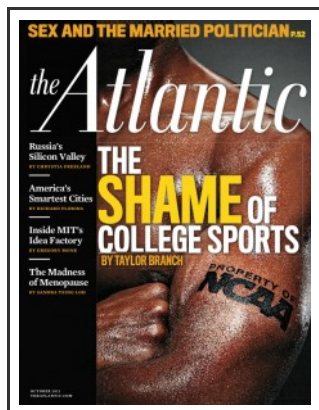
I have also joined novel experiments to reform the teaching of American history in our schools. Improvement is sorely needed. Students score abysmally low on history and basic civics, in part because schools have been evaluated on test scores limited to math and reading. With textbooks dying out, and inadequate, our goal is to provide teachers with story-based resource material in engaging, digestible units at low cost, or for free. My part so far has been to extract from my civil rights trilogy the most essential narrative lessons for both printed edition and access via the internet. I began the process a reluctant, old-fashioned author but have become an eager convert. The upcoming efforts will be announced in the next few months and launched next year.

The Atlantic assignment took me, a casual sports fan, into unfamiliar worlds of colliding passion. Many people think big-money sports have corrupted higher education, while others think greedy athletes have corrupted college sports. Instead, I found thoughtless exploitation beneath the NCAA's Oz-like amateur ideal. It made me an abolitionist, and I hope at least to broaden the scope of debate. I welcome your reaction. Advance tidbits of my argument will be posted daily until Tuesday.

# Press Coverage of The Shame of College Sports



Published on 15 September 2011 by [taylorbranch](#) in [College Sports](#), [General](#), [NCAA](#)



The Shame of College Sports was released yesterday on the [Atlantic web site](#) and has received quite a bit of media attention.

Frank Deford wrote a [response](#) to the article and [spoke](#) about it on NPR. His endorsement was the highlight for me in an avalanche of press reactions yesterday. They promise to spark fresh national debate on the place of sports in higher education.

Following is a list of stories and reviews about the article.

[MSNBC's Daily Rundown](#)

[CNN's Inside the Newsroom](#)

[NPR's All Things Considered](#)

[NPR's Frank Deford](#)

[Columbia Journalism Review](#)

"Taylor Branch's cover story in the new *Atlantic* is a devastating indictment of the NCAA, a must-read for anyone interested in college athletics and the business of sports. It's a superb synthesis of the history of the NCAA, the hypocrisy of keeping athletes from getting paid while the commercialization of college sports (football and basketball, that is) runs amok, and why a reckoning may be in store."

[Deadspin.com:](#)

"If you read one piece of sports journalism this week, it should be *The Atlantic* magazine's huge cover story by Taylor Branch, a Pulitzer-Prize-winning civil rights historian. Branch isn't doing much new by calling out the NCAA as a morally defective institution—a "classic cartel...[that] presides over a vast, teetering glory" and exudes "an unmistakable whiff of the plantation." He's just doing it much, much better than most. In fine-bladed fashion, Branch lays out a case for overhauling an organization that he describes as parasitic, corrupt, and, yes, antithetical to liberty. Branch wrote a trilogy of Martin Luther King, Jr. books. He's one of the few people in the country who can liken the NCAA and its proxies to slavers and be taken seriously. And, Lord, how it must suck to be called a racist by a man who's penned 2,912 pages on civil rights."

[Deadspin.com](#) (Article 2):

"There is too much amazing material in Taylor Branch's *Atlantic* piece about the NCAA for us to handle it

all at once , so we're just going to keep pulling shiny gems from the treasure trove whenever a new one catches our eye."

#### [SBNation.com](#)

"...Historian Taylor Branch's latest work at the *Atlantic*- "The Shame Of College Sports"-is the latest addition to the canon, and it's as comprehensive as any work so far. It could be its own book, but for now you'll have to settle for 15,000 words online, and a definitive work of journalism to point to the next time someone asks why certain college athletes should be getting paid. Check it out, and keep it bookmarked. One day a few years from now, it might be fun to go back and remember when the NCAA was run by "whoremasters."

#### [TheBigLead.com](#)

"Through thorough argument and excellent historical context, Branch, sledgehammers every facet of what he believes to be college football's shamelessly corrupt infrastructure and presents the case for college athletes to be paid."

#### [The Post Standard](#) (Syracuse)

"Taylor Branch, the Pulitzer Prize winning author of *Parting the Waters, America in the King Years* has written a fascinating piece for *The Atlantic* that castigates the NCAA and its member institutions for profiting from the performances of their "student-athletes." The long story, entitled "The Shame of College Sports" is worth the read."

#### [The Week](#)

#### [Poynter.com](#)

[SportsIllustrated.com](#) (Deford's commentary):

#### [Boston Globe](#)

#### [LA Observed](#)

#### [Pittsburgh Post Gazette](#)

## Response to Seth Davis

18

Published on 23 September 2011 by [taylorbranch](#) in [College Sports](#), [General](#), [NCAA](#)

*Sports Illustrated* columnist Seth Davis has posted a blog on SI.com tagged “Rebutting Taylor Branch.” Let me respond briefly. First, here are links to the full text on both sides: my article last week in *The Atlantic*, “[The Shame of College Sports](#),” and his [criticism](#) of it on Wednesday. Interested readers can compare them fully for context.

I wish Davis’s blog had offered a space as commonly allotted for direct comment, and I offer him a reciprocal opportunity on my site to clarify and narrow our disagreements. Transparent dialogue can reduce the waste of straw arguments and mischaracterization.

We agree on one stark reality well stated by him: “There is no movement—none—within the actual governing structure of the NCAA to professionalize college athletes.” We also agree that sports departments lose money now at nearly every college, and that relatively few could afford to pay any athletes if allowed to do so.

The nub of our dispute is over the general terms of service for college athletes. Davis says I overlook the fact that athletes are paid already with scholarship packages, while I say these in-kind benefits beg the fundamental question of whether the colleges and the athletes should be free to bargain for more or less.

To insist that athletic scholarships settle the compensation issue is like saying that any worker who gets medical coverage doesn’t need or deserve a salary. Worse, the NCAA demands adherence to this absurd standard by forbidding both sides to negotiate changes. Non-playing adults thus reserve to themselves all the wealth generated by college sports, whereas the NCAA punishes highly-valued athletes (famously the Georgia Bulldogs receiver A. J. Green last year) even for selling an old jersey.

Davis argues that scholarships are more than enough. (“If anything,” he writes, “most of these guys are overpaid.”) This is a convenient perspective for those who enjoy or benefit from the current structure, but that doesn’t make it fair. The NCAA’s unique amateur rules are imposed by private collusion of the colleges without sanction in law. College players, unlike Olympic athletes, are excluded from NCAA membership and from all rights of due process by the consortium that tries to govern them.

To me, the basics of genuine reform are simple. No college should be required to pay or not to pay students who play for them in any sport. Athletes should have the rights other citizens take for granted, and should be represented in every organization that depends upon their skill and devotion. We are the only country in the world that hosts professionalized sports at institutions of higher learning. There are profound questions about whether these two missions can or should coexist, but genuine education will not begin until we stop pretending that compensation itself makes college athletes “dirty.”

I invite Seth Davis to meet me in any verbal forum that can substitute for mid-court or the fifty-yard line. There we can trade questions and answers openly. He can cross-examine me on any argument or fact in my survey of college sports from the Civil War to Cam Newton. We may have fun, because the arena is inherently colorful and wondrous, but I will challenge him to declare his basic premise. Exactly how does he justify fastening amateurism on somebody else, and on college athletes alone? By what presumption must we all be satisfied that they are not earning too much? Here's hoping that Davis and I can push forward in constructive debate.

## NCAA Reform and the Penn State Scandal

**2**

Published on 15 November 2011 by [taylorbranch](#) in [College Sports](#), [General](#), [NCAA](#)

Several domestic and foreign media outlets have asked whether I see connections between the explosive Penn State sexual abuse scandal and the structural flaws I perceived in a recent survey of NCAA college sports.

**The short answer is yes.** (My inquiry first published in The Atlantic's October issue, is currently available in an expanded Byliner.com ebook, [The Cartel](#).)

Any prolonged exploitation demands acquiescence that can be imposed only by gross disparities in power. The governance of college sports is telling in this respect. By fiat, the NCAA has concentrated almost complete control in precisely those college officials already fired or indicted at Penn State: the coaches and chief administrators.

So far, the NCAA has remained almost silent on the periphery of an unfolding investigation at Penn State. "To be sure," said NCAA President Mark Emmert in a four-sentence statement, "civil and criminal law will always take precedence over [NCAA] Association rules."

This deference to law is proper. It is also strikingly humble in contrast to the NCAA's customary posture of quasi-legal authority. Sports officials speak formally of NCAA "legislation," and the enforcement process for college scandals mimics the judicial aura of regular courts.

The gruesome allegations from Penn State stripped pretense quickly aside. NCAA rules have no standing in law. Their enormous influence on college campuses, allocating billions of sports dollars nationwide, rest wholly on private collusion without sanction from any level of government.

I think the most positive development since the Penn State revelations has been a rash of spontaneous seminars to examine the insulated world of college sports. How could athletic officials conceal abuses so long at such human cost? What reconciles the diverse roles of student and citizen, player and worker, teacher and fan? Can big-revenue sports be compatible with quality education? Who decides?

There is a healthy new cry for accountability. Some professors argue that faculties must no longer abdicate their share of responsibility for the university as a whole. Some students realize that NCAA rules exclude them all from membership, denying players the basic rights of representation, due process, opportunity, property, and freedom, among others.

Inevitably, reform would grant NCAA players, like Olympians, a stake in sports governance. Newly established checks and balances could curb the corruptions of concentrated power, but change will not come easy. The NCAA system is deeply entrenched at more than a hundred schools where big-money

sports are glorified. It promotes greed, punishes the weak, rewards the exploiters, and fleeces the players, all while claiming to police itself. An overhaul, while sadly too late for the Penn State victims, is long overdue.

# Sports Illustrated's "Pay for Play" Model in Response to Criticism of College Sports

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Published on 23 December 2011 by [taylorbranch](#) in [College Sports](#), [General](#), [NCAA](#)

George Dohrmann of Sports Illustrated has launched an ambitious model to investigate the feasibility of paying college athletes. His results so far are [posted on the SI site](#), prefaced admirably as follows: "The mission of our universities is to educate, but college sports is big business, and no one wants young athletes exploited."

I applaud Dohrmann for this effort. It seems well motivated, and it shows that knowledgeable people are thinking seriously at last about the fundamental structure of college sports.

Still, readers should pay attention to the basic design of Dohrmann's model. Its starting point is the current athletic budget at leading universities, and its question is how much if anything those athletic departments can afford to pay their players. Not surprisingly, he concludes that "the vast majority of athletic departments do not generate enough profit to pay athletes." Any revenue for such pay has been allocated elsewhere. Dohrmann's model tracks the difficulty of re-allocation on a presumption that money to pay football and basketball players must come from the elimination of other teams.

This framework seems skewed to me. It purports to be an open-minded exploration while tacitly accepting too much of the status quo. "SI [Sports Illustrated] is not advocating paying college players," Dohrmann states at the outset. "That's a decision best left to college administrators." Embedded there is a presumption that those administrators unilaterally can and should decide whether or not to pay their key talent. Why should they? What boss would give up discounted labor, especially when the resultant savings have been distributed among the bosses and coaches themselves?

I suggest a more basic starting point. Who should be involved in decisions about pay for college players? Does exclusion from the process exploit them inherently? If athletes are entitled to bargain for their own livelihood, like other citizens, then colleges must be free to pay them or not. A market would evolve. Salaries for coaches doubtless would decline. The overall college community, including the players, would make decisions about whether and how big-time sports are compatible with education. Players would cope straightforwardly with separate standards in two careers, academics and (often) commercialized sports.

Currently the system is rigged by a shaky cartel agreement through the NCAA. My survey of NCAA history, which appeared in *The Atlantic*, is now expanded and current for \$3.99 in a [Byliner.com](#) ebook, "[The Cartel](#),". By confronting the hoax of amateurism, Sports Illustrated could re-build George Dohrmann's worthy model on a sounder basis.



# Reply to Law Professor Neil H. Buchanan

**1**

Published on 07 February 2012 by [taylorbranch](#) in [College Sports](#), [General](#), [NCAA](#)

*Author of "A Critique of the Misguided Calls to Give Up on the Student-Athlete Ideal"*

Forgive me, blogosphere. Because of MLK Day and other obligations, I have neglected a month's continuing fallout over my survey of NCAA college sports in The Atlantic magazine ("The Shame of College Sports," October 2011 issue) and its expanded ebook [The Cartel: Inside the Rise and Imminent Fall of the NCAA](#) (published by Byliner.com).

There have been many kind reviews and questions mixed with a steady stream of attacks. I have offered numerous comments on Twitter, which in itself has been an adventure in digital media for me. Previous blogs have included two exchanges with CBS Sports commentator Seth Davis.

I am glad that so many lawyers have entered the debate. Neil H. Buchanan, a prominent economist and law professor at George Washington University, posted a sweeping response to me in his January 5, 2012 "Verdict" column for Justia.com. Here is a link: <http://verdict.justia.com/category/entertainment-law>. Please read the full posting if you are interested in the NCAA controversy. Professor Buchanan reflects mainstream assumptions in sports culture as well as law. I am going to say very harsh things about his argument. Still, I do not wish to distort his position as I believe he distorts mine.

Buchanan makes three essential points. First, he dismisses my work as the product of "righteous anger," extremism, compromised judgment, and a "morally repugnant" analogy between big-time college sports and the slave plantations of old. To do so in passing, he ignores substance and context along with my explicit qualifications.

Second, Buchanan declares a primary goal of reform to be the protection of college athletes from exploitation. I agree. From there, however, he focuses on physical exploitation (concussions, injuries, etc.) to the exclusion of other kinds of abuse. He glosses over the potential for economic, sexual, academic, or legal exploitation.

Most oddly, for a law professor, Buchanan never discusses legal redress. Not once does he discuss any rights by which college players could or should protect themselves like other citizens. Buchanan treats them as helpless ciphers rather than participants. Indeed, no baby in diapers could be more dependent, excluded, and voiceless than college athletes in his design for their welfare.

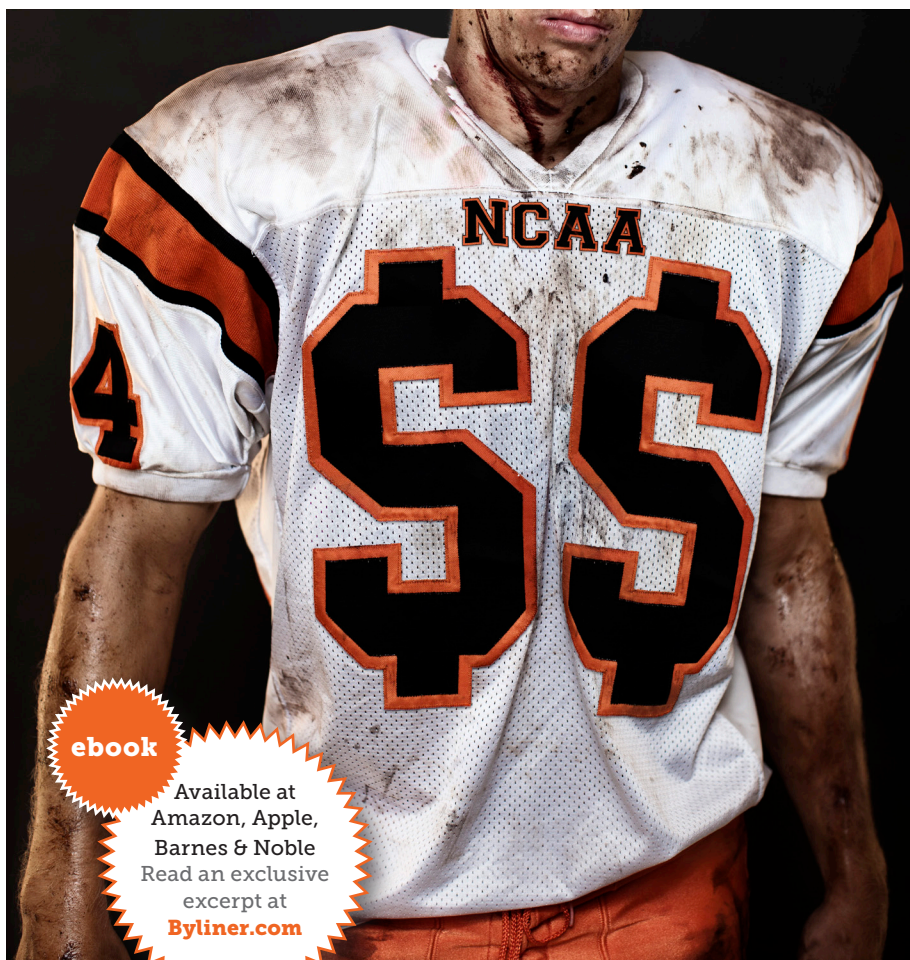
Third, Buchanan proposes one catchall solution. He says a strengthened and resolute NCAA should divert money from high-salaried coaches and bloated athletic budgets into scholarship support for higher education. This idea sounds noble until you think. It is irrelevant to his stated goal of protecting athletes.

Legally, it overlooks antitrust decisions by the Supreme Court that prohibit collusive limits on sports earnings by colleges and their employees.

Buchanan's proposal, even if it were practical, would do nothing but transfer funds from athletic departments into the academic reservoir from which he draws his own salary. Thus, by cant and paternalism, NCAA supporters perpetuate the abridgment of fundamental rights for college athletes.

A BYLINER ORIGINAL

*"THE MOST IMPORTANT STORY EVER WRITTEN  
ABOUT COLLEGE SPORTS."* —FRANK DEFORD



ebook

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excerpt at  
[Byliner.com](http://Byliner.com)

THE  
**CARTEL**

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TAYLOR BRANCH

# A THREE-POINT REFORM AGENDA FOR SPORTS IN HIGHER EDUCATION

## 1/TRANSPARENCY

**AT ANY COLLEGE OR UNIVERSITY THAT HOSTS** an intercollegiate sports program, the principal stakeholders must be assured candid, complete, and verifiable records for athletic revenues and obligations as well as for academic standards and performance. These records should be open for public inspection and accountability, subject only to appropriate privacy protections for the identity of individual students.

The body of sports stakeholders should include representatives of the school's trustees and administrative leadership, its athletic department, its faculty, and students both on and off its sports teams.

## 2/BALANCE

**STAKEHOLDERS MUST EXERCISE JOINT RESPONSIBILITY** for the separate spheres of academics and sports. To uphold integrity in both areas, they must manage conflict and competing goals.

They should, for instance, address in detail any variance allowed for athletic recruits in college admissions. More generally, they could allocate a percentage of sports broadcasting and advertising receipts to the general academic budget. They could adjust the class calendar to accommodate seasonal demands on athletes, and take steps to encourage interaction in campus life between athletes and non-athletes. They should seek external alignments to compete athletically with schools of comparable balance and purpose, as reflected in conference rules.

## 3/EQUITY

**COLLEGES AND UNIVERSITIES SHALL RESPECT** the basic rights of all students, applied consistently to athletes and non-athletes alike. On campus, as under the law, adult students retain the full attributes of citizenship. These include the rights and duties of informed consent, equal opportunity, representative government, and due process.

No freedom shall be abridged because of athletic status. To meet practical needs and aspirations, all students are eligible to seek fair compensation in full- or part-time jobs, entrepreneurial ventures, teaching appointments, work-study programs, and all other legitimate enterprise whether for or separate from their school.

# Food For Thought: Why Do Amateur Sports Colleges Need The NCAA?



Published on 24 February 2013 by [taylorbranch](#) in [College Sports](#), [General](#), [NCAA](#)

I have concentrated this year on my career-long commitment to civil rights history, teaching an experimental [online seminar at the University of Baltimore](#) while promoting a newly published book, *The King Years*.

Still, with the NCAA's March Madness approaching, more questions arrive about my recent foray into college sports. In *The Cartel*, I concluded that fans and educators have recoiled from basic issues of fairness. A rationalizing inertia undermines not only the rights of college athletes but the integrity of higher education.

*(It is not particularly easy to find quick links to purchase The Cartel as an e-book or paperback on Byliner's site. As such, I have provided them at the bottom of the blog post)*

Here is a question to ponder as the annual frenzy over college basketball builds again in the coming weeks. Would it matter if the NCAA's amateur rules were nullified at the vast majority of its 1,066 member schools that do not pursue commercialized sports?

More than 700 Division II and Division III institutions sponsor intense but relatively inconspicuous games, with few athletic scholarships or none. If permitted, would Pomona College, Florida Southern, and Saginaw Valley barge into the athletic marketplace? Would Middlebury and Texas Lutheran scramble to give athletes salaries on top of new scholarships?

Invariably, officials at such schools tell me no. They could not and would not pay players any more than they would offer wages to the drama club or dance troupe. They say professional shows would violate their educational mission.

I applaud this stance. No college should be compelled to start a side business or to pay anyone. We should recognize, however, that this focus at most colleges is grounded in principles and practicality wholly independent of NCAA rules. Indeed, the heads of smaller schools bristle at any suggestion that they shun commercialized sports because the NCAA requires it.

Here then is the rub. By lending—or renting—their educational idealism to the NCAA, the smaller colleges create a façade of universal amateurism that shields rapacious, predatory sports programs. Roughly a tenth of the NCAA membership has chosen to commercialize campus sports to the hilt. These big-time sports schools chase multimillion-dollar license and broadcast deals to finance a vast, lucrative complex for all but the core talent. No voices—not even the blue-ribbon reform commissions—

forthrightly justify the amateur vows imposed on college players.

A few academic thinkers have begun to cut through this bedrock presumption. In “[The Illusion of Amateurism in College Athletics](#),” for instance, Warren Zola of Boston College dismantles the NCAA’s claim to exist solely for the educational enhancement of students through sports. Zola makes clear that education and big-money athletics are separate worlds, with distinct standards. Managing them starts with honesty.

Suppose for a moment that the 700 smaller colleges either withdrew from the NCAA or used their super-majority within it to renounce one-way amateurism. Nothing would change for most of these schools. They would retain proper responsibility both for their athletes in the classroom and for their students in the sports arena. To address conflict, they could apply the [three-point agenda](#) I gleaned from campus consultations last year: [1] Transparency (in academic and financial records); [2] Balance (in goals for education and sports); and [3] Equity (in governance).

By contrast, the powerhouse sports programs fail a key test of equity: “No freedom shall be abridged because of athletic status.” The schools strip from athletes many basic freedoms that all fellow students —let alone other citizens—take for granted. These include the rights of due process, equal opportunity, consent, representation, labor, and fair market value. Such blanket deprivation lies beyond the reach of any single university or conference. It has prevailed by NCAA collusion and fiat, without sanction in law.

March Madness brings into focus the commercial engine of college sports. CBS-Turner pays \$771 million directly to the NCAA in broadcast rights for the one-month event. This huge sum accounts for more than 90 percent of the NCAA’s annual income. Of the NCAA’s 340 Division I basketball teams, the 68 entrants selected each year come mostly from 124 BCS (Bowl Championship Series) schools that also dominate college football. An occasional “Cinderella” advances beyond early rounds, but last year, typically, 15 of the “Sweet 16” were BCS teams.

The BCS and NCAA are nervous rivals. Last month, in an [interview with NPR host Tom Hall](#), I described them as “overlapping cartels.” The BCS schools, which negotiate separate football contracts, have been jumping around wildly to consolidate bargaining strength in the BCS conferences that will launch a four-team football championship in 2014. Competitive complaints and legal pressures will push toward a three-round playoff structure, mimicking basketball’s “Elite Eight,” but one thing is certain: the NCAA will have no say or stake in the mammoth television bonuses to be reaped from a BCS gridiron tournament. It was precisely to avoid sharing revenue with NCAA Headquarters, and with its myriad small colleges, that Big Football revolted from NCAA control in the 1980s.

So the NCAA remains dependent on a basketball monopoly while the BCS builds its competing football juggernaut. Nearly a thousand humbler colleges and universities give this unstable raw casino a fig leaf of amateur purpose. They may see no reason to question their minimal participation, which serves

tradition and unity. Yet if dollar-driven campus games rest on the exploitation of athletes, as I contend, corrective action is never wrong. It might spur a broader wake-up to skewed values in higher education.

To the inevitable howls from our college sports empire, amateur schools have a truly educational response: "If you don't want to pay your students, don't use them for business."