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The Punch That Landed: The Professional Boxing Safety Act of 1996

April R. Anderson

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COMMENT

THE PUNCH THAT LANDED: THE PROFESSIONAL BOXING SAFETY ACT OF 1996

I. INTRODUCTION

Despite more than two decades of congressional study and proposals, not a single federal law has yet been enacted in this area [of boxing]. The failure to create a national regulatory agency to safeguard the physical well-being of professional boxers suggests that the federal government has not been sufficiently sensitive to the plight of the members of the small, but nonetheless highly visible occupation.¹

The historical evolution of the sport, including the violence and other problems of boxing has been well documented.² Similarly, articles calling for congressional action to cure boxing's ailments have been equally abundant.³

The sport of boxing, while regulated by the individual states, has never benefited from federal oversight. With the passage of The Professional Boxing Safety Act of 1996,⁴ there is finally a federal statute that purportedly regulates the health and safety standards of professional boxing.

This comment is not a historical account that chronicles the establishment of state boxing regulation, or the early attempts at federal regula-

1. Laurence Laufer, *Uniform Health and Safety Standards For Professional Boxing: A Problem in Search of a Federal Solution?*, 15 COLUM. HUM. RTS. L. REV. 259, 259 (1984).

2. See, e.g., GEORGE C. BERNARD, *THE MORALITY OF PRIZEFIGHTING* (1952); BETTY SPEARS & RICHARD A. SWANSON, *HISTORY OF SPORT AND PHYSICAL ACTIVITY IN THE UNITED STATES* (1978); DON ATYEO, *BLOOD & GUTS: VIOLENCE IN SPORTS* (1979).

3. See generally Laufer, *supra* note 1; Ross Rosen, *In The Aftermath of McClellan: Isn't It Time For The Sport of Boxing To Protect Its Participants?*, 5 SETON HALL J. SPORTS L. 611 (1995); Kevin M. Walsh, *Boxing: Regulating A Health Hazard*, 11 J. CONTEMP. HEALTH L. & POL'Y 63 (1994); Ian Forman, *Boxing In The Legal Arena*, 3 SPORTS LAW. J. 75 (Spring, 1996); Peter E. Millspaugh, *The Federal Regulation of Professional Boxing: Will Congress Answer The Bell?* 19 SETON HALL LEGIS. J. 33 (1994); Lawrence Bershad & Richard J. Ensor, *Boxing in the United States: Reform, Abolition, or Federal Control? A New Jersey Case Study*, 19 SETON HALL L. REV. 865 (1989).

4. 15 U.S.C.S. §§ 6301-6313 (1996).

tion. Nor is this comment a diatribe about the violent nature of the sport that could perhaps provide a moral impetus toward stringent reform or abolition. Instead, the purpose here is merely to acknowledge the punch that Congress dealt to an industry previously unfettered by federal oversight.

Part II explores the ineffective nature of state regulation. Part III examines the legislative attempts made in the years previous to the Act's passage including The United States Boxing Commission Act of 1992, The Professional Boxing Corporation Acts of 1992 and 1993, and The Boxing Safety, Retirement, and Retraining Act of 1993. Part IV generally discusses the reasons behind the failure of these attempts. Part V discusses the proposal of The Professional Boxing Safety Act of 1994, and the proposal, passage and reaction to The Professional Boxing Safety Act of 1996. Part VI analyzes special concerns and potential problems with the Act. Part VII addresses proposed amendments to the Act, as well as other boxing reform proposals. Part VIII offers concluding remarks.

II. STATE REGULATION: INHERENTLY INEFFECTIVE

One of the most frequently made generalized comments by proponents seeking to establish federal regulation of boxing has been the "lack of 'self-policing' inherent within the industry of professional boxing."⁵ Indeed, the historical regulation by state authorities or commissions, and the lack of any strong professional organization,⁶ has made cohesive regulation of the sport difficult. Unlike other professional sports where leagues, players' associations, or some other centralized governing body provides oversight, boxing has historically allowed individual states to function on their own.

This has perhaps been facilitated by the structure of the sport itself. Professional boxing differs from other sports because it has never needed a central body to arrange a regular schedule, maintain a specific format, and market its competition successfully. Professional boxing is a profitable enterprise even though its contests are not regularly scheduled, the sites for its matches are not inexorably fixed by tradition or by homage to the 'home team' concept, and upstart entrepreneurs are not prevented from speculating and contracting for 'major league' fights, without regard to the 'prerogatives' of the industry's established promoters.

5. Bershad & Ensor, *supra* note 3, at 906.

6. *See id.*

Since professional boxing does not need a central organization to structure its competition, it lacks a superstructure comparable to that developed by other sports. Initially, this superstructure was created to protect the market for these sports' regular formats of competition. Ultimately, however, it evolved to provide an agency for supervising and safeguarding the players' physical welfare.⁷

Thus, the very nature of a boxing exhibition has been such that traditionally, it was believed that states could accommodate effective regulation for bouts occurring within their jurisdiction.

However, professional boxing does not exist along, or within, nicely drawn borders that delineate the rules and safety procedures that should govern. While individual states may have created commissions that promulgate regulations, there is no consistency, no minimal requirements that set the floor for acceptable policies and procedures. Such fragmented governing amongst the states has been particularly ineffective because professional boxing occurs on interstate, national, even international levels.

This high degree of variation of boxing regulation among the states has created economic incentives discouraging federal oversight, and the establishment of minimum standards. For example,

[t]he income generated by commercial, subscription, and closed circuit television coverage has minimized the importance of gate receipts to a financially successful match. Promoters, therefore, may maximize profits and minimize government intervention by staging fights in states with more relaxed regulations, even if ticket sales are likely to be lower there. Thus states which offer the boxer the greatest medical safeguards may well have the fewest boxers to protect. States with little regulation, and perhaps few fans, will attract an increased share of the boxing business. The mobility of the boxing industry renders it immune from effective state regulation, making it virtually impossible to safeguard the welfare of the fighters as well as the viewing interests of the consuming public.⁸

In short, state regulation as the sole scheme for governing the sport has potentially encouraged abuse by opportunists and other unscrupulous individuals. In addition to the economic issue previously mentioned, the health and safety of the boxers themselves are

7. Laufer, *supra* note 1, at 290.

8. *Id.* at 279.

compromised.⁹ For example, if a boxer has been suspended or otherwise disqualified in one state, there was previously nothing that prevented him or her from fighting elsewhere. If boxing is that individual's livelihood, and because success and rankings in the sport are determined by win-loss records (which can obviously only be determined if one continues to box), there is an inclination to participate elsewhere. This had occurred regardless of whether it was in the best interest of the boxer or his or her opponent.

III. BOXING REGULATION: ATTEMPTS IN THE 1990s

Although the United States Congress has proposed legislation nearly every session since the early 1960s,¹⁰ a brief overview of the proposals made just prior to the passage of The Professional Boxing Safety Act is helpful in laying the foundation for what would eventually be enacted into law.

A. *The United States Boxing Commission Act of 1992*

On June 16, 1992, Congressman William Richardson of New Mexico introduced The United States Boxing Commission Act of 1992.¹¹ Its most substantive feature called for the creation of a Boxing Commission which was to be a self-funded arm of the federal Department of Labor.¹² This Commission was to establish minimum industry standards,¹³ and create a national computer database containing the registration of each individual boxer.¹⁴ Of primary concern was the standardization of health and safety issues.¹⁵ In particular, the legislation sought to regulate physical and mental examinations, the use of boxing equipment, and the availability of medical services at the match.¹⁶ Additionally, the bill addressed the concern of conflicts of interest, and prevention of such conflicts among managers, promoters, and boxers.¹⁷

9. *See id.*

10. For a thorough examination of the evolution of boxing regulation in the historical perspective, *see* Millsbaugh, *supra* note 3.

11. H. R. 5407, 102d Cong. (1992).

12. *See id.* at § 2.

13. *See id.* at § 5.

14. *See id.* at § 8(c).

15. *See id.* at § 5(a)(1).

16. *See* H.R. 5407, 102d Cong. § 5(a)(1)(A)-(C) (1992).

17. *See id.* at § 5(a)(2).

Another feature of the bill was defining the relationship between the federal Commission and state authorities.¹⁸ The proposal mandated that state boxing authorities were to act as registering agencies,¹⁹ and prohibited matches from taking place in a state where no regulatory agency existed, unless the state provided the Commission with a detailed, comprehensive plan for boxing regulation.²⁰

The bill proposed that once minimum standards were set by the federal Commission, state agencies would be required to submit plans that met these minimum standards.²¹ Failing to initially meet these standards, or later not maintaining such standards, would result in disapproval, or withdrawal of prior approval by the Commission.²²

Finally, the bill recommended government funding for the first five years of operation in the amount of approximately \$1.5 million.²³ After that, the proposal suggested that the Commission be funded by fees generated from the federal registration system.²⁴

This bill was sent to the House Energy and Commerce Committee, as well as the House Education and Labor Committee on the date of introduction, and was never acted upon.²⁵

B. The Professional Boxing Corporation Act of 1992

To compete with Congressman Richardson's proposal in the House, Senator William Roth of Delaware introduced The Professional Boxing Corporation Act of 1992²⁶ in the Senate. Its companion, sponsored by Congressman Owens, was introduced in the House in early July, approximately fifteen days later.²⁷

This bill initially set out findings which concluded that: (1) professional boxing was besieged by problems that state regulation was ill-equipped to control; (2) there was no uniform regulation of professional boxing; (3) unlike other professional sports, boxing remained centrally unregulated, and was incapable of self-regulation; (4) the major problems in professional boxing centered around the exploitation of

18. *See id.* at § 6(b).

19. *See id.* at § 6(b)(2).

20. *See id.* at § 7(a)(1)-(2).

21. *See* H.R. 5407, 102d Cong. § 6(a)-(b) (1992).

22. *See id.* at § 6(c)-(d).

23. *See id.* at § 13(a).

24. *See id.*

25. *See* 102 Bill Tracking H.R. 5407, last action date was July 8, 1992.

26. S. 2852, 102d Cong. (1992).

27. H. R. 5524, 102d Cong. (1992).

boxers, conflicts of interest, corruption, and questionable judging; and (5) the problems in boxing not only endangered the health and welfare of participants, but undermined the credibility of the sport.²⁸

According to Roth's proposal, the solution to the woes in boxing was to be found in the creation of an oversight organization known as the Professional Boxing Corporation, or PBC. The stated purpose of the Act was "to establish a national organization which shall work with state boxing authorities to establish and enforce uniform rules and regulations for professional boxing in order to protect the health and safety of boxers and to ensure fairness in the sport."²⁹

The essential functions of the PBC were threefold. First, the PBC was to establish a nationwide computer database,³⁰ similar to that of Richardson's proposal. Second, the PBC was to license, in a nationwide fashion, boxers, referees, and judges who would be charged with enforcing industry-wide minimum standards.³¹ Finally, the PBC was to implement a national certification process to register promoters, managers, trainers, and others involved in the sport.³²

To these primary functions, the PBC was assigned additional tasks as well. These included enacting regulations to require fight contracts to be filed and reviewed by the PBC thirty days prior to the match,³³ enacting regulations establishing standards for contractual agreements between boxers and promoters,³⁴ and enacting regulations setting minimum standards for physical and mental exams, equipment, and the availability of medical services at matches.³⁵

In order to aid the PBC, Roth gave some teeth to his proposal by granting the PBC a series of enforcement options. Included in these powers was the ability to suspend or revoke registrations and licenses, conduct investigations, hold hearings, and issue prohibitory orders.³⁶ In carrying out investigations, PBC administrators were further given authority to administer oaths, subpoena witnesses and evidence, and compel testimony under penalty of fines or imprisonment.³⁷

28. See S. 2852, 102d Cong. § 2 (1992).

29. *Id.* at § 3.

30. See *id.* at § 8(a)(1).

31. See *id.* at § 8(a)(2).

32. See *id.* at § 8(a)(3).

33. See S. 2852, 102d Cong. § 8(c)(1)-(2) (1992).

34. See *id.* at § 8(c)(9)-(10).

35. See *id.* at § 8(c)(3)-(6).

36. See *id.* at § 8(d)-(g).

37. See *id.* at § 8(f)(2)-(3).

Similar to the Richardson bill, The Professional Boxing Corporation Act of 1992 entered various committees in both the House and the Senate shortly after introduction, and was never acted upon.³⁸

C. The Professional Boxing Corporation Act of 1993

The competing, yet complementary bills introduced by the 102d Congress championed the same goals: the long term regulation of professional boxing through federal agencies designed to establish, promulgate, and encourage industry standards in a uniform way. In the summer of 1993, an amalgam of the two proposals emerged in The Professional Boxing Corporation Act of 1993,³⁹ sponsored by Senator Roth and Congressman Richardson.

This new piece of legislation retained the major elements of Roth's previous bill, and added the state approval requirements of Richardson's bill. However, to supplement what was essentially the melding of two previous plans, the new proposal gave the PBC expanded authority to require an event license for major boxing matches,⁴⁰ to set minimum standards for the fairness of boxing contracts and agreements,⁴¹ and to determine specific standards for state and federal sanctioning organizations.⁴² Additionally, the new plan encouraged the PBC to examine the creation of an accident, health, and life insurance fund for boxers,⁴³ and to study the feasibility of a pension program for professional boxers.⁴⁴

In terms of enforcement, all of the powers proposed in the Roth bill were retained. However, one potentially significant power was added which authorized the PBC the right to intervene "in any civil action filed in a United States District Court on behalf of the public interest in any case relating to professional boxing."⁴⁵

Similar to its predecessors, this proposal was never acted upon in committee.⁴⁶

38. See 102 Bill Tracking S. 2852, last action date was Aug. 11, 1992; 102 Bill Tracking H. R. 5524, last action date was July 1, 1992.

39. H. R. 2607, 103d Cong. (1993); S. 1189, 103d Cong. (1993).

40. See *id.* at § 8(b)(3). The bills are identical and section numbers apply to both.

41. See *id.* at § 8(d)(9).

42. See *id.* at § 8(d)(10).

43. See *id.* at § 8(d)(5)(A).

44. See H.R. 2607, 103d Cong.; S. 1189, 103d Cong. § 8(d)(5)(B) (1993).

45. *Id.* at § 8(i).

46. See 103 Bill Tracking H.R. 2607, last action date was July 26, 1993; 103 Bill Tracking S. 1189, last action date was July 1, 1993.

D. The Boxing Safety, Retirement, and Retraining Act of 1993

Much like the previous boxing proposals, The Boxing Safety, Retirement, and Retraining Act of 1993,⁴⁷ sought to establish a Professional Boxing Corporation. However, this plan (introduced by Congressman Owens) went further in that it suggested the creation of a Professional Boxing Advisory Board, or PBAB, which would convene and make recommendations to the PBC on how to efficiently and effectively carry out the functions of the legislation.⁴⁸ Additionally, the PBAB would be charged with contacting each state boxing authority to encourage the establishment of a Congress of State Boxing Administrators which would then meet annually to review and revise the rules of the sport, the health and safety regulations of professional boxers, and the licensing and registration of participants.⁴⁹

In short, the only significant difference between this plan and the Professional Boxing Corporation Act of 1993 was the establishment of a sub-administration, the PBAB, to direct and advise the PBC. All other provisions remained essentially similar, including the fact that neither left committee.⁵⁰

IV. FAILED ATTEMPTS

It has been suggested that the hesitancy of Congress to pass legislation regulating boxing can be attributed to the lack of urgency for substantial guidance in the sport, and the inadequate means of understanding and evaluating whether any legislation would be a successful effort toward reform.⁵¹ Indeed, one author notes:

At work also is certainly an apprehension that federal intervention into professional boxing would open the door for the regulation of other professional sports from Washington. Many observers still contend, simply, that a combination of market forces and public opinion alone will either discipline the industry or bring about its demise.⁵²

There is also the possibility that the proposals introduced, and suggested may have gone too far. It has been observed that, "[t]heir unmistakable signature is the position they stake-out on the heavy-handed end

47. H. R. 3311, 103d Cong. (1993).

48. *See id.* at § 7(a)-(b).

49. *See id.* at § 7(b).

50. *See* 103 Bill Tracking H. R. 3311, last action date was July 26, 1994.

51. Millspaugh, *supra* note 3, at 67-68.

52. *Id.* at 68.

of the regulatory spectrum. A new national standard-setting, rule-making entity is inevitably involved. This entity is to be superimposed over existing state and local authorities.”⁵³ Further, none of the legislative proposals have defined what the “minimum standards,” or “rules and regulations” would comprise. An administrative commission, or corporation is merely being created to make those determinations. Resistance toward creating and granting authority to a rule-making body armed only with broad-based, generalized guidance, to a certain extent, may be the hallmark of legislative caution. Thus far, it is only certain from the offered proposals, that a federal commission would be established, charged with setting minimum standards regulating the health and welfare of boxers. Perhaps without more elucidation as to the kind of minimum standards required, the fate of these legislative proposals was predetermined.

Nonetheless, while the failed legislative attempts to regulate boxing continued to mount, the accusations against the sport remained constant.⁵⁴ Included in the laundry list of charges was the exploitation of boxers; fixed contests and mismatches; inadequate health and safety protections for participants; conflicts of interest among managers and promoters; monopolization of the market; the influence of organized crime; and inadequate state regulations.⁵⁵ In this climate of accelerating accusations and congressional failures, another legislative attempt was made.

V. THE PROFESSIONAL BOXING SAFETY ACT: 1994 AND 1996

A. *The Professional Boxing Safety Act of 1994: An Early Version*

In 1994, Senators McCain and Bryan submitted a proposal entitled *The Professional Boxing Safety Act of 1994*.⁵⁶ It was designed to provide safety regulations for journeymen boxers. Substantively, the proposal had four major sections.

First, the bill proposed a registration system whereby each individual boxer would be required to register with a state boxing commission.⁵⁷ Each state commission would then issue an identification card containing a personal identification number and a photograph of the boxer.⁵⁸ The boxer would then be compelled to present this card prior to the

53. *Id.*

54. *See generally* Walsh, *supra* note 3; Rosen, *supra* note 3.

55. *See* Millsbaugh, *supra* note 3, at 67.

56. S. 1991, 103d Cong. (1994).

57. *See id.* at § 5(a).

58. *See id.* at § 5(b).

weigh in of any given match. According to Senator McCain, such a system would "help State officials verify not only the identity, but the professional and medical history of each boxer seeking to box in the State. Verifying this information [would] enable[] State boxing commissioners to ensure that no injured or debilitated boxers [would] be exploited by participating in a show in their State."⁵⁹

Second, the bill mandated that in order for any state to hold a professional boxing match, it must be regulated by an oversight committee such as a state boxing commission.⁶⁰ If a state failed to have such a regulatory authority, then they would be compelled to arrange sanctioning of the event by another state boxing commission.⁶¹ Senator McCain noted that "[i]t is dangerous and indefensible for any jurisdiction to allow professional boxing matches to occur without providing a minimum level of responsible oversight."⁶²

Third, the bill required that each State boxing commission review the professional and medical background of each boxer wishing to fight, in order to determine whether the boxer had been suspended elsewhere.⁶³ This provision was designed to prevent boxers from fighting in one state, when they had previously been suspended for failing drug tests, or were otherwise deemed medically ineligible to compete in another state.

Finally, McCain's proposal required that suspensions and results of boxing matches be reported to the Association of State Boxing Commissioners and the Florida State Athletic Commission.⁶⁴ Senator McCain noted that,

[t]he requirement for the State of Florida's commission to also be notified of boxing show results and suspensions will assist their officials in the extremely valuable work they have generously performed in this regard for several years. At no cost to other State commissions or other interested parties, Florida's boxing officials send out a continuously updated list of all boxers and promoters who have been suspended across the country due to injury, violation of state laws, or improper conduct. All State commissions should review this list weekly, and take action to properly oversee the boxing events held in their State.⁶⁵

59. 140 Cong. Rec. S 3961 (daily ed. March 25, 1994) (statement of Sen. McCain).

60. See S. 1991, 103d Cong. § 4 (1994).

61. See *id.*

62. 140 Cong. Rec. S. 3961 (daily ed. March 25, 1994) (statement of Sen. McCain).

63. See S. 1991, 103d Cong. § 6 (1994).

64. See *id.* at § 7.

65. 140 Cong. Rec. S. 3961 (daily ed. March 25, 1994) (statement of Sen. McCain).

In his testimony introducing the bill, Senator McCain addressed some of the reasons why this proposal should be considered, especially in light of previously failed attempts. He expressly pointed out the omission of creating a federal commission that would require taxpayer funding.⁶⁶ Additionally, he acknowledged that maintaining state regulation of the sport was still a primary concern; his federal legislation would merely provide some minimal standards for boxing oversight.⁶⁷ Finally, McCain addressed the historical practice of exploitation in boxing which seriously damaged its integrity.⁶⁸ In doing so, he was critical of congressional inaction, noting that "we simply cannot tolerate the dangerous status quo of bootleg boxing shows and fraudulent matches because things have always been done that way, or because the Congress has never found a practical and acceptable method to assist the State commissions that regulate the sport."⁶⁹

On March 25, 1994, the bill was referred to the Senate Commerce, Science and Transportation Committee. It received favorable recommendations in committee, but was never acted upon.⁷⁰

B. The Professional Boxing Safety Act of 1996: The New Law

The Professional Boxing Safety Act of 1996⁷¹ (the "Act"), is quite short and retains few vestiges of previous legislative proposals, although it most closely resembles its predecessor, The Professional Boxing Safety Act of 1994. It maintains as its purpose, "to improve and expand the system of safety precautions that protects the welfare of professional boxers; and to assist State boxing commissions to provide proper oversight for the professional boxing industry in the United States."⁷² To achieve those ends, it prohibits professional boxing matches in states without boxing commissions, "unless the match is supervised by a boxing commission from another State. . . ."⁷³

Additionally, the Act mandates adherence to an explicit list of safety standards. First, a physical examination of each participant, by a certified physician, stating whether the boxer is physically able to safely compete, must be performed. The commission must receive a copy of the

66. *See id.*

67. *See id.*

68. *See id.*

69. *Id.*

70. *See* 103 Bill Tracking S. 1991, last action date was September 28, 1994.

71. 15 U.S.C.S. §§ 6301-6313 (1996).

72. 15 U.S.C.S. § 6302 (1996).

73. *Id.* at § 6303.

physical exam, and the physician's recommendation.⁷⁴ Second, an ambulance and medical personnel must be continuously present at the match.⁷⁵ Third, a physician must be continuously present at the match.⁷⁶ And finally, each boxer is required to carry health insurance to provide medical coverage for an injury which may be sustained during the match.⁷⁷

To combat the allegations of "state hopping,"⁷⁸ and fight mismatches, the statute establishes a registration system.⁷⁹ Each boxer is required to register with the boxing commission in his or her state of domicile, or in any state with a boxing commission. The commission then issues an identification card containing a photograph of the boxer, his or her social security number (or similar citizen identification number), and a personal identification number assigned by a boxing registry (i.e. a boxing commission).⁸⁰ This registration must be renewed every two years,⁸¹ and must be presented to the appropriate commission no later than the time of weigh-in for a particular contest.⁸²

Rather than creating a federal commission for oversight purposes as most previous plans had done, the Act holds state commissions responsible for carrying out the regulation of the sport. First, the commission must establish procedures for evaluating the records, and physician certifications of each boxer who wishes to fight in that state.⁸³ More significantly, the commission must ensure that no boxer participates in a match while suspended from any commission due to a recent knockout or series of losses, an injury or denial of physician certification, failure of a drug test, using false aliases, or falsifying identification cards or supporting documentation.⁸⁴ Furthermore, the commission must establish procedures to review suspensions and revoke suspensions when they are no longer merited by the facts.⁸⁵ Finally, each commission is charged with

74. See 15 U.S.C.S. § 6304(1) (1996).

75. See *id.* at (2).

76. See *id.* at (3).

77. See *id.* at (4).

78. This is the term given to the practice of fighting under an assumed name in one state, after being disqualified and/or suspended from fighting in another.

79. See 15 U.S.C.S. § 6305 (1996).

80. See *id.* at (b)(1).

81. See *id.* at (b)(2).

82. See *id.* at (b)(3).

83. See 15 U.S.C.S. § 6306 (a)(1) (1996).

84. See *id.* at (a)(2).

85. See *id.* at (a)(3)-(4).

making a reporting to other registries, those entities certified to maintain records and identifications of boxers.⁸⁶

In addressing the problems of conflicts of interest, the Act provides that:

No member or employee of a boxing commission, no person who administers or enforces State boxing laws, and no member of the Association of Boxing Commissions may belong to, contract with, or receive any compensation from, any person who sanctions, arranges, or promotes professional boxing matches or who otherwise has a financial interest in an active boxer currently registered with a boxing registry.⁸⁷

Another significant aspect of the Act is the enforcement provision. The U. S. Attorney General may bring civil action for injunctive relief if there is reasonable cause to believe there is a violation of the Act.⁸⁸ Criminal penalties of imprisonment and/or fines up to \$20,000.00 may be levied against managers, promoters, and matchmakers for any violations of the Act.⁸⁹ Similar fines and penalties are available for any infringement of the conflict of interests provisions.⁹⁰ Any boxer who knowingly violates the Act may be fined up to \$1,000.00.⁹¹

Finally, the statute addresses its relationship with state law by noting that, "[n]othing in this Act shall prohibit a State from adopting or enforcing supplemental or more stringent laws or regulations not inconsistent with this Act, or criminal, civil, or administrative fines for violations of such laws or regulations."⁹²

In sum, the essential features of the Act are threefold. First, the Act mandates that all professional boxing matches be sanctioned by a state boxing commission. If a particular state does not have such a commission, it must adopt the rules and regulations of a state that does. Second, the Act requires that all boxers register with a state boxing commission and maintain renewable identification cards. And finally, the Act demands that all boxers who enter the ring be deemed physically able to fight, that all boxers carry adequate health insurance in the event of an emergency, and that all professional boxing contests be held in the presence of a physician, medical personnel, and an ambulance service.

86. See 15 U.S.C.S. § 6307 (1996).

87. 15 U.S.C.S. § 6308 (1996).

88. See 15 U.S.C.S. § 6309 (a) (1996).

89. See *id.* at § (b)(1).

90. See *id.* at § (b)(2).

91. See *id.* at § (b)(3).

92. 15 U.S.C.S. § 6313 (1996).

C. A Good First Step

Senator Richard Bryan of Nevada helped draft the Act, and drew from Nevada's comprehensive regulatory structure of professional boxing oversight.⁹³ Senator Bryan noted that:

[I]t was our intent in developing this legislation that the States retain primacy in implementing health and safety requirements for the boxing industry. The Professional Boxing Safety Act is not an attempt to create a new, costly federal bureaucracy to oversee the boxing industry. To the contrary, this legislation is supported by the Association of Boxing Commissions. In addition . . . enacting S.187 would have no significant impact on the federal budget.⁹⁴

Senator Bryan hints at two reasons why this Act eventually passed where others had not. First, it did not require federal funding. Second, and more significantly, it did not create a federal commission that could be construed as essentially regulating the sport from Washington, a fear previously suggested.⁹⁵ Similarly, Congressman Oxley championed enactment and further reform, but cautioned, "[h]owever, we need to ensure that any reforms do not weigh down the bill and prevent passage."⁹⁶

Thus what emerged was a modest scheme that left state authority intact, while offering explicit minimum safety standards. In response to some criticism that the Act was just a diluted, watered-down version of previous proposals, one commentator noted that, "[i]t is a subset of the Roth bill. But Sen[ator] McCain [the Act's primary sponsor] feels that it's a good first step."⁹⁷

D. Reaction

The news of the Act's proposal and eventual passage was met with mixed reviews. The Act was called "toothless,"⁹⁸ and although there

93. See *The Professional Boxing Safety Act of 1996: Testimony on S. 187 Before the Subcomm. on Commerce, Trade, and Hazardous Materials of the House Commerce Comm., and the Subcomm. on Workforce Protections of the House Economic and Educational Opportunities Comm.*, 104th Cong. (1996) (statement of Sen. Richard H. Bryan).

94. *Id.*

95. See Millsbaugh, *supra* note 3, at 68.

96. *The Professional Boxing Safety Act of 1996: Testimony on H. R. 1186 Before the Subcomm. on Commerce, Trade, and Hazardous Materials of the House Commerce Comm.*, 104th Cong. (1996) (statement of Congressman Michael G. Oxley, Chairman, Subcomm. on Commerce, Trade, and Hazardous Materials).

97. *Punch-Drunk: Reform Slow In Coming In U.S.*, HOUSTON CHRONICLE, Feb. 18, 1996, at 10.

98. *Id.*

was some faint applause for congressional action toward the regulation of professional boxing, many commentators seemed to think that although it was something, the Act was not much.⁹⁹ The loudest criticism seemed to come from editorials in the sports pages, or journalists who chastised Congress for failing "to regulate the disjointed and corruption-prone sport."¹⁰⁰

However, most of the reaction toward the Act was of a positive, if not understanding, nature. Those in this camp seemed to accept the Act as a foundation upon which to build future reform. In that sense, it was viewed as a critical first step toward better, and more comprehensive oversight. For example, one commentator noted that:

The bill isn't designed as a cure-all for professional boxing but it focuses on safety and assisting states that don't have boxing commissions. . . . The bill isn't aimed at major boxing states such as Nevada, California, New York and New Jersey, but toward states that have occasional cards. Sometimes in such states there is no commission or a commission that isn't used to regulating a card. In those cases, commissions sometimes don't have the experience or expertise to properly regulate cards. Such commissions need all the help they can get.¹⁰¹

VI. SPECIAL CONCERNS AND POTENTIAL PROBLEMS

Although the Act has at times been criticized for being too moderate and for not going far enough toward reform and regulation, there are at least three areas in which potential legal challenges may arise. These include: fights on Indian reservations, the issue of state sovereignty, and HIV-positive boxers. Each will be addressed in turn.

A. Indian Reservations

One potential loophole in the Act is the regulation on Indian reservations, considered sovereign nations.¹⁰² Reservation gaming ordinances which allow casino gambling have begun to open their doors to boxing, and increasingly, more professional bouts are occurring in these

99. See *Jurisprudence*, L. A. TIMES, June 12, 1996, at C8; *Boxing Bill Lacks Punch, Critics Believe*, COMMERCIAL APPEAL, June 12, 1996, at D2.

100. *Jurisprudence*, *supra* note 99 at C8.

101. Royce Feour, *Legislation Could Do Wonders In Improving Safety In Boxing*, LAS VEGAS REVIEW-JOURNAL, June 28, 1996, at 4C.

102. See Norm Frauenheim, *Bill 'First Step' To Knocking Out Mismatches*, ARIZ. REPUBLIC, Oct. 2, 1996, at D2.

venues.¹⁰³ The Act prepared for this event by devoting a whole section to professional boxing matches conducted on Indian reservations.¹⁰⁴

The general requirement permits the tribal organization to regulate matches held on the reservation, or permits contractual agreement with a boxing commission to carry out that regulation.¹⁰⁵ If the tribal organization does not have, or fails to establish an agency equivalent to a boxing commission, it is required to adopt the standards and guidelines of the boxing commission of the state in which the reservation is located.¹⁰⁶

If a recent Oregon example is any indication, there may be a mutual concern both from reservations and the states in which they are located, to adhere to the Act's standards. In Oregon, the State Boxing and Wrestling Commission worked closely with the Cow Creek Band of Umpqua Indians to reach an agreement with tribal rules and regulations modeled after the state's boxing regulations.¹⁰⁷ The result cleared the way for the first professional boxing match on an Oregon reservation, and the first professional contest in Oregon in three years.¹⁰⁸

Although it has not occurred, it is conceivable that a reservation may want to go ahead with a match involving a boxer suspended elsewhere.¹⁰⁹ This would surely raise a legal challenge to the Act's provision.

B. State Sovereignty

Closely related to the potential concern on Indian reservations is the sovereignty of those handful of states without boxing commissions.¹¹⁰ The state of Colorado has spoken the loudest about this issue. Their concern is the provision of the Act that requires a state without a boxing commission to contract with a state that does have a commission, and use those standards and procedures in order to sponsor a professional

103. *See id.*

104. *See* 15 U.S.C.S. § 6312 (1996).

105. *See id.* at (b)(1)(A)-(B).

106. *See id.* at (b)(2).

107. *See Agreement Brings Boxing Matches to Oregon Casino*, COLUMBIAN, Oct. 14, 1997, at B.

108. *See id.*

109. *See* Frauenheim, *supra* note 102, at D2.

110. At the time of the Act's passage, only Colorado, Nebraska, North Carolina, Oklahoma, Oregon, South Dakota, and Wyoming were without state boxing commissions. Kansas left such supervision to local oversight. Today, the only remaining states without state boxing commissions are Colorado, South Dakota, and Wyoming. Oklahoma, Oregon, and North Carolina created state regulatory commissions shortly after the passage of the Act. The Kansas law has been left unchanged.

boxing match.¹¹¹ According to some, this smacks of federal interference upon a state, clearly violating the 10th Amendment.¹¹²

However, this question of whether the federal government can constitutionally "encroach" on an area previously regulated solely by the states, has already been addressed by the United States Supreme Court.¹¹³ A 1955 decision, *United States v. International Boxing Club of New York*,¹¹⁴ explored whether boxing held an antitrust exemption similar to that of baseball. The defendants attempted to establish that boxing was a "local affair," and thus not an industry engaged in interstate commerce (and hence could not be held in violation of antitrust laws for restraints on interstate commerce).¹¹⁵ The Court disagreed and found the federal antitrust laws applicable.¹¹⁶ Even though the matches were indeed of a "local" nature, the fact that they were promoted, televised, and broadcast on a multistate level made them amenable to federal law.¹¹⁷

One author notes,

[t]he Court did not address the question of whether promoting a local, non-televised, 'club fight' was also a 'business engaged in interstate commerce,' and whether, as such, it was subject to federal regulation as well. If it is not, federal uniform health and safety standards would not affect many of the matches conducted under circumstances most dangerous to a boxer's health and safety. It is at least arguable, however, that federal regulation is not unconstitutional where contestants, promoters, spectators and advertisers utilize the channels of interstate and foreign commerce in order to engage in, hold, attend or present a boxing match.¹¹⁸

Furthermore, because advancement in boxing is based on rankings, affected by a win-loss record, every fight, whether highly promoted, televised or not, has the potential to significantly impact a boxer's ranking.¹¹⁹ Thus to increase his or her professional standing, a boxer is likely to travel, interstate, to expand his or her opportunities to fight.¹²⁰ Addi-

111. 15 U.S.C.S. § 6303(1996).

112. See Jerry Kopel & Dave Kopel, *Congress Sucker Punches Colorado*, ROCKY MOUNTAIN NEWS, Jan. 10, 1997, at 48A.

113. See Laufer, *supra* note 1, at 280.

114. 348 U. S. 236 (1955).

115. See *id.* at 241.

116. See *id.*

117. See *id.*

118. Laufer, *supra* note 1, at 281.

119. See *id.*

120. See *id.*

tionally, "the frequent use of interstate commerce to circumvent many states' regulatory schemes is persuasive evidence that the inadequacy of current health safeguards in professional boxing at all levels of competition is a problem of national scope."¹²¹

Although the Act was designed specifically to address the concerns of journeymen boxers (as opposed to the highly promoted televised bouts), Laufer's argument is compelling. These smaller, "localized" fights are necessary to buttress a boxer's standing and rank. To the extent that a boxer has been allowed to "shop around" for fights—whether prompted by suspensions, loss of eligibility, or trying to find an "easy" win—then a credible argument can be made that such a practice does reach the level of interstate commerce.

Whether a court would agree is purely an exercise in speculation, however, "[f]ederal intervention to protect the health and safety of players in sports with inadequate private regulation is not unprecedented."¹²² President Theodore Roosevelt, disturbed by the brutality in collegiate football, began a reform movement in 1905 to create uniformity in rules; establish a broader range of penalties; and otherwise alter the sport to reduce the rates of injury and death.¹²³ Roosevelt's initiative was very successful, so much so that "[m]any of the major features of today's football had their origins in the rules developed in 1906."¹²⁴

Nevertheless, Colorado, which does not have a boxing commission at this juncture, is questioning the legality of its submission to "supervision" by another state. Their major contention is that if they had wanted to create a state boxing commission, they would have; and "[i]f Congress wanted to spend the money and hire the employees to create a Federal Boxing Commission, which would regulate boxing nationwide, there would be no claim that the law violates states' rights."¹²⁵

While the issue may be moot (there is a bill pending in the Colorado legislature which creates a boxing commission), it raises another potential challenge to the Act. Defining the legality of regulation in one state by another, may require a court determination. A group in Colorado is suggesting that the Colorado Attorney General bring a lawsuit to prevent the laws of another state from being forced upon its own sovereignty.¹²⁶

121. *Id.*

122. *Id.* at 266.

123. See Laufer, *supra* note 1, at 266-67.

124. *Id.* at 267.

125. Kopel & Kopel, *supra* note 112, at 48A.

126. See *id.*

Incidentally, there have been numerous tales of problems with Colorado fight cards.¹²⁷ In describing the Colorado situation, Woody Kislow-ski, a former fighter and member of the Colorado Boxing Alliance, commented:

Ricardo Galvan, still under suspension from being knocked out in Fort Collins in December, was impersonating Ricky Corona . . . [i]t was pointed out that Corona was actually Galvan and that he was under suspension [but] . . . my friend was told, 'Hey, what are you, some kind of troublemaker?' . . . This circus sideshow featured suspended fighters, impostors, boxers outweighed by 60 to 70 pounds, officials that worked corners for the fighters in one fight, then officiated the next . . . and of course [there was] our old friend the mismatch.¹²⁸

This is precisely the type of situation the Act is designed to eradicate.

C. HIV-Positive Boxers

A final legal issue that could rear its head with the passage of the Act, is the concern surrounding HIV-positive boxers.¹²⁹ Most commissions require mandatory AIDS testing prior to boxing contests. In the most notorious boxing example, heavyweight Tommy Morrison tested positive for the HIV virus in February 1996, and received a medical suspension from the state of Nevada.¹³⁰ Under the provisions of the new Act, other states are compelled to honor that suspension.

The transmission of the HIV virus is of special concern in boxing where bloody exchanges are commonplace. Middleweight boxer Tony Thornton offered testimony prior to the passage of the Act and focused on the HIV issue. He raised a legitimate question by stating, "[f]ighters train on a daily basis at gyms with whomever is available. Are sparring partners going to be tested for HIV?"¹³¹ He was speaking generally about the conditions affecting the health and safety of fighters, and implied that the Act did not do enough if the genuine concern is for the

127. See Dan Luzadder, *Boxing Regulation On House Agenda*, ROCKY MOUNTAIN NEWS, Jan. 25, 1997, at 5A.

128. *Id.*

129. See, e.g., Paul M. Anderson, Comment, *Cautious Defense: Should I Be Afraid To Guard You? (Mandatory AIDS Testing In Professional Team Sports)*, 5 MARQ. SPORTS L. J. 281 (1995) (explaining the issue of HIV-positive athletes and AIDS testing in the sports arena).

130. See Frauenheim, *supra* note 102, at D2.

131. *The Professional Boxing Safety Act: Testimony on S. 187 Before the Subcomm. on Commerce, Trade, and Hazardous Materials of the House Commerce Comm. and the Subcomm. on Workplace Protections of the House Economic and Educational Opportunities Comm.*, 104th Cong. (1996) (statement of Tony Thornton).

boxer's welfare. The Act does not regulate amateur contests, or the day-to-day conditions of professional boxers. HIV transmission is just as likely to occur in these scenarios as during a professional bout.

Interestingly, Tommy Morrison wanted to sponsor a boxing match to raise funds for children with AIDS.¹³² The match was to take place in Tokyo, Japan, where Japanese law does not prohibit HIV-positive boxers from entering the ring.¹³³ His original opponent, Anthony Cooks, was forced out of participation when he was arrested on warrants for rape, and possession with intent to distribute cocaine and marijuana.¹³⁴

Morrison instead fought Marcus Rhode who lost the bout to Morrison when the referee stopped the scheduled ten round bout one minute and thirty-eight seconds into the first round after Morrison downed Rhode three times.¹³⁵ In commenting about the concerns of fighting an HIV-positive boxer, fight promoter Ron Weathers said, "I have fifty fighters who want to fight Tommy Morrison. He's a credible fighter. If they knock him out, it's instant money. With the business they are in, these fighters are not concerned with HIV. In this sport, they put themselves on the line every day."¹³⁶

If Weathers' statements are true, there is perhaps an even more compelling argument in favor of more stringent regulation. If boxers, promoters, and managers are willing to disregard potential health risks, such as HIV transmission, in the hope of obtaining quick cash, they may likely forego necessary precautions. As such precautions are mandated, rather than optional, the chances of boxers putting themselves and others at risk is reduced. However, as these precautions only apply to the testing and reporting procedures in a professional bout, legal issues in the training and amateur realm may still exist.

VII. AMENDMENTS AND OTHER PROPOSALS

Two amendments to the Act have been proposed, one in the House, and one in the Senate. The first,¹³⁷ authored by Senator McCain, seeks

132. See *HIV-Positive Boxer Tommy Morrison Wants to Fight Again*, AGENCE FRANCE-PRESS, Sept. 20, 1996; *Feedback*, RECORD-NORTHERN N. J., Sept. 29, 1996, at S3.

133. See Steve Springer, *Morrison Foe Is A Fugitive, Boxing: Anthony Cooks Wanted For Rape and Drug Charges*, L. A. TIMES, Oct. 30, 1996, at C1.

134. See *id.*

135. See Steve Springer & Sonni Efron, *HIV & Sports: What Have We Learned?*, L. A. TIMES, Nov. 3, 1996, at C9.

136. *Id.*

137. See S. 1506, 105th Cong. (1997).

to add a section protecting boxers from exploitation. The general provision states that no licensee, promoter, manager, or matchmaker:

[M]ay require a boxer to employ, retain, or provide compensation to any individual or business enterprise (whether operating in corporate form or not) designated by that person as a condition of:

(1) such person's working with the boxer as licensee, manager, matchmaker, or promoter;

(2) such person's arranging for the boxer to participate in a professional boxing match; or

(3) such boxer's participation in a professional boxing match.¹³⁸

This amendment passed the Senate in November of 1997, and was introduced to the House Committees on Education and the Workplace, and Commerce.¹³⁹

The second amendment,¹⁴⁰ probably introduced in light of Mike Tyson's ear biting of Evander Holyfield, adds a new term to the definition section of the Act for "malicious foul or infraction," and defines such activity as:

[A]ny violent act or series of violent acts in which a professional boxer intentionally causes, or attempts to cause, bodily injury to an opposing boxer during the course of a professional boxing match in a manner inconsistent with the generally accepted methods of competition in a boxing match, as determined by guidelines set forth by the Association of State Boxing Commissions . . . includ[ing] (a) head butting, (b) kicking, (c) striking an opponent after a round has ended, (d) biting an opponent's body or extremities, [and] (e) striking an opponent on an impermissible part of the opponent's body.¹⁴¹

This amendment further deems such malicious fouls or infractions as permissible reasons for suspension by any State boxing commission.¹⁴² And thus, under previous provisions of the the Act, the boxer would essentially be prohibited from boxing anywhere while under suspension.

Most recently, this amendment was pending in two House Committees.¹⁴³

138. *Id.* at § 15 (a)(1)-(3).

139. See 105 Bill Tracking S. 1506, last action date was Nov. 12, 1997.

140. See H. R. 2354, 105th Cong. (1997).

141. *Id.*

142. See *id.*

143. See 105 Bill Tracking H. R. 2354, last action date was Aug. 1, 1997.

Senator McCain has long implied that the Act was just the first stage in a series of changes that he would like to see implemented. In addition to the two proposed amendments, McCain recently began exploring the possibility of a pension plan for retired professional boxers. He recently noted that, "We've got to do this in stages . . . The first effort was to see what we could do to protect the health and safety of fighters. Boxing is the only major sport where there is no pension plan. These people are the least able to adjust to the post-fight situation."¹⁴⁴

The feasibility and operation of a pension fund are somewhat unclear,¹⁴⁵ but McCain remains dedicated in his fight to protect journey-men boxers, and "to care for those who bear the scars of this demanding profession."¹⁴⁶

The success of such a proposal is hard to predict especially in light of the newness of the Act, and the thirty-odd years required to get any legislative action passed. Nonetheless, it is likely that McCain and others will continue to keep opportunities for boxing reform and regulation viable.

In the midst of McCain's step by step approach, however, The Professional Boxing Corporation Act of 1997¹⁴⁷ was introduced in the House in mid-July. It retains the major tenets of the previous PBC Acts of 1992, and 1993, and will probably meet a similar fate. It has been referred to the Committees on Commerce, and Education and the Workforce,¹⁴⁸ where it will most likely remain given the passage of the Act, and the failure of earlier PBC proposals.

VIII. CONCLUSION

Due to the fact that congressional action in the regulation of boxing has been so long in coming, commentators had for years advanced several theories as to why no federal proposals ever became law. It has been suggested that boxing, compared to the more pressing social, political, and economic issues that Congress has had to address, was really just a low priority.¹⁴⁹ Also, the lack of cooperation from those in the industry itself "strongly suggests that the handful of well-to-do promot-

144. Manny Topol, *A Safer Sport of Boxing*, *NEWSDAY*, July 1, 1997, at A57.

145. See *McCain Seeking Pension Plan For Pro Boxers*, *ARIZ. REPUBLIC*, May 23, 1997, at C2.

146. *Senator Proposes Boxing Pension Plan*, *LAS VEGAS REVIEW-JOURNAL*, May 23, 1997, at 5C.

147. See H. R. 2176, 105th Cong. (1997).

148. See 105 Bill Tracking H. R. 2176, last action date was July 16, 1997.

149. See Millsbaugh, *supra* note 3, at 67.

ers and their financial backers that dominate the business today prefer the . . . system of disorganized and largely ineffectual state regulation."¹⁵⁰ Furthermore, Congress, as well as others, have had a hard time even identifying a group or organization that acts as the voice for the profession.¹⁵¹ Who then speaks with authority when problems in the sport are raised?

This lack of centralized organization does not mean that there are not interested parties in existence. In fact, the opposite is true, which may be another reason why federal regulation of boxing has been so delayed. As has previously been recognized, "there are the pressures exerted by groups which would be adversely affected by any regulatory process, no matter how minimal the regulation. These groups include the worldwide sanctioning bodies, the television networks, and the individual boxing promoters and managers."¹⁵²

Perhaps the largest fear has been that if Congress were to begin federal regulation of boxing, the whole organization of athletics as we know them may run amok and fall under government control. Indeed, "[m]any legislators worry that boxing would be the first step in a regulatory scheme that could ultimately include all amateur and professional sports. Therefore, some legislators do not support boxing reform no matter how minimal the standards or laudable the goals."¹⁵³

Finally, previous hesitancy on the part of Congress to enact boxing regulations or reform may have existed because of the misconception that someone—the states themselves—were already doing something. However, even those states with the most stringent and comprehensive plans have been hampered by a lack of federal oversight. The case of New Jersey is an illustrative example.

Without minimum uniform national standards for boxing regulation, New Jersey's efforts to regulate boxing will be somewhat ineffective since the state can only keep track of boxers, managers, etc., when they are operating in the state. Once boxers or other regulated individuals leave the state, their activities are difficult to monitor. Regulated individuals are responsible for self-reporting their activities creating an inherently unreliable system. Any of the proposed federal legislation would help solve this problem. New Jersey can now only track the boxers and their fight records for boxing cards held within its boundaries and must rely on the

150. *Id.* at 68.

151. *See* Laufer, *supra* note 1, at 265.

152. Bershad & Ensor, *supra* note 3, at 914.

153. *Id.*

hearsay of the boxer to report results from outside the state. With a national clearinghouse for fight data, New Jersey would be able to update its records using federal data and would be able to detect any inaccuracies in records submitted by the boxer.¹⁵⁴

Thus, even those states that opted for thorough oversight of the sport within their jurisdiction were essentially unable to offer full protections and reliable regulation because they were unable to effectively monitor boxing elsewhere. The passage of the Act has changed that system somewhat, opening the lines of communication between the states, and offering minimal protections for boxers.

With the substantial accusations against the sport, and the numerous failed attempts toward regulation, what propelled Congress to consider, and eventually enact the law in 1996? That is a very difficult query to answer, but worthy of speculation nonetheless.

First, most of the previous proposals, especially those drafted during the 1990s, were very heavy handed—laden with bureaucratic commissions requiring funding, staffing, and substantial reorganization of the status quo.¹⁵⁵ They were, perhaps, typical overreactions; acknowledging the problems in boxing, and trying to correct them in one fell swoop, believing results could only be accomplished through intensive congressional intervention. Such a response may have been overbroad, and too strong a reaction to gain much support. As previously mentioned, the Act is rather simplistic, and really only mandates a few minimal requirements to be imposed within the current system of regulation by the states. Thus, the emphasis of the Act in addressing boxing's ills little by little, may have made it more palatable. Also, shifts in congressional seats, and philosophical and political biases may have changed the milieu enough to garner support and prioritize boxing regulation. As one author noted two years prior the Act's passage,

[i]n lieu of one-stroke perfection, for example, today's Congress could well be receptive to more limited and incremental measures carefully designed to selectively improve the industry in certain key areas of public interest over time. Instead of placing yet another private sector industry under the thumb of another new

154. *Id.* at 912-13.

155. An exception would be the Professional Boxing Safety Act of 1994. The author attempted on several occasions to contact Senator John McCain in order to gain insight into the differences between how the 1994 proposal, and the 1996 Act were received, and the circumstances that contributed to the failure of the first, and the eventual passage of the latter. At the time of publication, no response had been received.

traditional federal regulatory authority, there may be more receptivity in Congress to alternative arrangements.¹⁵⁶

Second, the near death experience of Gerald McClellan during a highly publicized bout in London in 1995 may have propelled Congress toward some type of reform. The McClellan incident seemed to renew the public debate about the dangers of boxing.¹⁵⁷ Following the McClellan bout, the British Medical Association reasserted its suggestion that boxing be banned.¹⁵⁸ Years before, in 1982, the American Medical Association "recommended rigid safety regulations to better protect boxers [and] [b]y 1984, the AMA called for an end to all boxing."¹⁵⁹ Thus perhaps there was a sentiment that if Congress failed to make even meager strides at boxing reform, public outcry would seek abolition.¹⁶⁰

Whatever the reason, be it timing, response to public concern, congressional climate, or a combination of these and perhaps other factors, the Act's adoption is of tremendous significance, if only for the fact that it succeeded where others had failed—by actually moving from proposal to passage. While it may be inappropriate to gauge its effectiveness at this juncture due to its newness and the fact that it arguably does not mandate much, it does provide the groundwork for future reform. And while one group of critics has now been silenced, the group that asked "Why isn't Congress doing anything?" new commentators can emerge to debate whether Congress has gone too far, or not yet far enough.

APRIL R. ANDERSON

156. Millspaugh, *supra* note 3, at 70-71.

157. See, e.g., Richard Hoffer, *Enough? A Brutal Title Bout Left Gerald McClellan Fighting For His Life And The Sport of Boxing Under Attack Once More*, SPORTS ILLUSTRATED, March 6, 1995, at 25; Rosen, *supra* note 3.

158. See Rosen, *supra* note 3, at 611.

159. Walsh, *supra* note 3, at 68.

160. The McClellan incident was not the first to raise the question of abolition. After the 1963 death of Davey Moore, California Governor Pat Brown, as well as the Pope, publicly demanded that boxing be outlawed. See Laufer, *supra* note 1, at 292, n. 188.

