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From the Line of Scrimmage to the Picket Line: Student-Athlete Protest in an Age of Protest,
1968-1972

By

Cameron Black

A dissertation submitted in partial satisfaction of the
requirements for the degree of
Doctor of Philosophy
in
History
in the
Graduate Division
of the
University of California, Berkeley

Committee in Charge:

Professor Caitlin Rosenthal, Chair

Professor Waldo Martin

Professor Mark Brilliant

Professor Steven Murray

Summer 2023

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Abstract

From the Line of Scrimmage to the Picket Line: Student-Athlete Protest in an Age of Protest,
1968-1972

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Cameron Black

Doctor of Philosophy in History

University of California, Berkeley

Professor Caitlin Rosenthal, Chair

My dissertation focuses on black student-athlete protest in the 1960s and how universities managed, conceptualized and disciplined student-athletes similarly to how employers disciplined labor throughout the 19th and 20th centuries. My project uses four case studies at four universities: University of Wyoming, Syracuse University, the University of California-Berkeley and Oregon State University. My research into protests by athletes at these universities discovered that these universities employed strategies that were remarkably similar to techniques employers often used to control and discipline labor in the late 19th and early twentieth centuries. These disciplinary measures indicate that by the 1960s, college sport was a last bastion of 19th century workplace norms, and culture. My research highlights important questions we should ask about the relationship between student-athletes and universities: the historical complexities of how student-athletes were managed, conceptualized and ultimately treated as labor should be of paramount importance for how we think about student protest and black radicalism in the 1960s, as well as how we think about student-athletes today.

This dissertation hopes to link the experiences of student-athletes to the history of capitalism. Athletic departments, with many university's blessings, were structured like, and often operated similar to corporations throughout the 20th century. A critical part of this incorporation was how the university and coaches decided to classify and manage student-athletes. Throughout the twentieth century, Student-athletes worked for their respective universities off the field, and were subject to rules that other employees had, with none of the protections that traditional laborers had. Debates over how student-athletes' labor, how were controlled and managed stretch back to the 19th century. In order to link sport and labor together, coaches and universities argued that they would teach student-athletes the essential links between sport and work. In order to do this, they borrowed tactics that employers used from the 19th century to the mid twentieth century to restrict labor movement. Universities also provided coaches with near complete authority for on field and off field matters like housing, restricted the wages of student-athletes for on and off the field labor, and consolidated disciplinary policies to athletic departments. The development of athletic departments in the 1920s and 1930s were consolidations of power from students to administrators, and from administrators to coaches. These processes all coalesced around student-athletes, transforming them into a hybrid of student and labor, with all of the burdens and none of the protections.

To Charles and Celeste Black

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I'd like to thank my family for providing me with the strength, endurance and support needed to write this dissertation. To my father, who picked up the phone nearly every time I called, and to my mother, who took time off work to talk to me during difficult times: thank you for everything

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Introduction

On October 1969, during the height of the student protest movement, Fred Steinmark, a University of Texas football star whose career had been cut short by a leg amputation, wrote an extraordinary letter to a Texas newspaper. As the person who provided much-needed *ethos* to the article, he possessed considerable sway over public opinion, and the student-athlete protests occurring throughout the country against the athletic departments that ran their programs, he argued, were intrinsically illegitimate. He explicitly distinguished college coaches from college professors or administrators and the power they should possess. To Steinmark, coaches possessed inherent, unshakable authority over student athletes: “But I do think that on the college level—and I emphasize on the college level—I believe sincerely that the head coach is the head master. He should rule the roost with an iron hand. He should be understanding, certainly... it’s up to the individual head coach to establish his policies and it’s up to the players to follow them.”¹ However his letter was received, it revealed the stakes of student-athletes’ protests against athletic departments: the existing relationship between coaches and student-athletes that Steinmark, and many other argued for, could only be possible within a unique space set apart from traditional university administration and workplace regulations.

A letter to *Sports Illustrated* published in October 1970 reflected the same reality. In it, Gerald M. Oleszek and Knowlton C. Foote, fans of football and more specifically Syracuse University, decried the treatment of head coach Ben Schwartzwalder during a protest by the school’s student athletes. Responding to the news that the grizzled head coach was under investigation by the local Human Rights Commission for abuses towards his players, the commentators argued that Schwartzwalder had not committed any wrongdoing. The head coach was a victim of the times, and that authority had been confused with despotism and repression.²

Little research has addressed student-athletes’ protests, which in virulent, inspiring uprisings, pitted Black and occasionally White student-athletes against athletic departments, coaches, and their fellow students. These protests paralleled the more-explored (and heralded) student protests, on campuses from California to New York. They reflected and refracted the context of the 1960s: a decade featuring social, political, economic and racial strife and broader social dislocation. These protests played within this explosive and transformative saga in American history.

In this dissertation, I analyze protests by Black student-athletes that occurred from 1968 to 1972 at four universities: the University of California-Berkeley, the University of Wyoming, Syracuse University, and Oregon State University. At Berkeley, from 1968 to 1969, student-athletes from the basketball and football team protested after the head coach dismissed a Black basketball player for refusing to cut his hair. At Oregon State, student-athletes on the football team protested during the 1970 season in response to the head coach removing a Black player because he refused to shave his mustache. At Wyoming, student-athletes protested against racist policies

¹ Fred Steinmark, “Head Coach Should Rule,” *San Antonio Express*, August 1, 1970, 3.

² Gerald M. Oleszek and Knowlton C. Foote in “19TH HOLE: THE READERS TAKE OVER: Sociology at Syracuse,” *Sports Illustrated*, October 12, 1970.

at their upcoming opponent Brigham Young University (BYU). At Syracuse, student-athletes protested against racist policies within the athletic department and the university as a whole.

As argued above, this dissertation focuses around protest at predominantly white universities. I made this choice for two main reasons: in the twentieth century, historically Black college (HBCU) athletics programs were not as enmeshed within the same capital extraction nexus as predominantly white universities (PWI) were, and thus players at HBCUs were not thought of as both labor and a form of capital assets like players enrolled at PWIs were, and questions of power and race were different at PWIs than at HBCUs. At many HBCUs, though coaches had, or attempted to have similar powers over their athletes, HBCU athletic departments were not thought of as ways for the university to generate revenue in the same way.³ Perhaps the most interesting example of this phenomenon was a student-athlete protest at Howard University in 1968. In this protest, Black athletes argued that athletic departments required more authority and money from the university. These demands, which would require the capitalization process that many athletic departments at predominantly white universities underwent in the early twentieth century, were at odds with demands made by Black athletes at predominantly white universities.⁴ Questions of integration, and power dynamics made by Black athletes at PWIs often differed from arguments posed by student-athletes at HBCUs. For instance, at Howard, student-athlete protestors were supported by their coaches because they argued for the same goals. However, every coach opposed student-athlete protestors' demands at the sampled universities above, and no Black student-athlete at Syracuse, Oregon State, Wyoming or Berkeley argued that their coaches or athletic department needed more authority over their earnings or free time. Black student-athlete protestors at PWIs provided very different arguments for how to change the university into a space in which they felt welcome at.

Black students across the country applied the principles of Black liberation within their specific university contexts: they advocated for the creation of institutions that would support and empower Black students and Black Americans. It is within this context that we must view these Black athletes' demands in the late 1960s and early 1970s. They did not consider the denial of equity within a team and educational context to be simple oppression. Rather, whether it was restricting the hair one could have or restricting the number of African American players on the team, it was a denial of their ability to express their identity as Black. Black student-athletes at the four focal universities protested courageously for a cause that transcended the athletic department.

Student-athletes were also enmeshed in the unique cultural zeitgeist of the 1960s and attempted to implement changes in athletic departments that, if had they been realized, would have been a tectonic shift in how athletic departments, coaches and universities could conduct themselves. Inspired by Black radical and liberation groups, Black athletes were at the forefront of the movements making these demands. As Jeffrey Ogbar notes, Black nationalists argued for full citizenship rights for Black Americans while cultivating pride in much that was not America.⁵ These outlooks inspired student-athletes to demand changes to athletic departments that would fundamentally transform how athletic departments, coaches, and universities conducted business.

³ Hilltop Staff, "Changes must come in the Athletic Department," *The Hilltop*, May 17, 1968.

⁴ Ibid.

⁵ Jeffrey O. G. Ogbar, "For the People and of the People Black Nationalism, Identity, and Popular Culture," in *Black Power: Radical Politics and African American Identity* (Baltimore: Johns Hopkins University Press, 2019).

Two themes defined Black liberation: Black pride and Black self-determination. For Black nationalists, Black people could achieve liberation independently of whites by creating and maintaining Black institutions to serve the interests of Black people.⁶ Leading Black activist-intellectual Stokely Carmichael argued in 1966 that the Black Power Movement was addressing “the necessity to reclaim our history and our identity from the cultural terrorism and depredation of self-justifying white guilt. To do this we shall have to struggle for the right to create our own terms through which to define ourselves and our relationship to the society, and to have these terms recognized.”⁷

For many Black Americans, sport played an integral role in the struggle against cultural terrorism, defined by Carmichael as an alchemy of appropriation from Black cultural movements like Jazz with the imposition of White American culture as the dominant socio-cultural form of expression.⁸ Throughout the twentieth century, Black athletes challenged dominant cultural attitudes toward what sport should stand for, and perhaps most importantly, how one could behave on and off a sports pitch. Sport often provided a critical supporting pillar for Black identity. Though cultural terrorism still occurred within the sports arena, the sometimes illusory but sometimes real meritocratic nature of sport allowed Black Americans to demonstrate intellectual and physical prowess. Sport provided a platform through which Black bodies could be appreciated and supported by Black Americans. Black athletes were often leaders within communities and engendered pride within Black communities throughout the twentieth century. From Joe Lewis to Muhammed Ali, to Arthur Ashe, Black athletes were on the forefront of Black liberation as a movement and an ideology. These athletes, and sport itself, would prove immensely influential to Black student-athlete protestors of the 1960s and 1970s.

However, for coaches and athletic departments at universities, both the Black Liberation movement and the broader idea of student-protest represented something unthinkable: a challenge to the very pillars of student-athlete relations. Both student protest and Black radicalism were incompatible within the nexus of relations between student-athletes, coaches, and universities for two reasons. They disrupted what coaches, administrators and fans saw as the symbiotic relationship between individual players and their teams, as well as coaches’ absolute authority. The authority of the coach was both paramount and ubiquitous. From conservative institutions like Wyoming, to moderate institutions like Oregon State to liberal institutions like Berkeley and Syracuse, administrators bowed to coaches’ prerogatives. One reason was that coaches and athletic directors were viewed and viewed themselves as benevolent. While many policies and decisions made by coaches and administrative staff were racist in their outlook and effect, they were rooted in an idea from the nineteenth century: that student-athletes of all races were laborers in training. These “laborers in training” required massive amounts of surveillance and discipline to teach them proper workplace habits.

The twentieth century was a time of momentous change across many spheres. Labor historians have identified how pushback to New Deal regulations fundamentally altered the experiences of organized labor in the 1960s. Historians of student protest have documented how student protest revolutionized how universities treated students. And, historians of African

⁶ Ibid.

⁷ Stokely Carmichael, “Towards Black Liberation,” *The Massachusetts Review*, Vol. 7, No. 4 (Autumn, 1966), 639-651.

⁸ Ibid.

American life have revealed how the Civil Rights Movement and Black Power Movement transformed not just African American life but also American life. While analyzing change over time is a central task of historians and the twentieth century was one of unprecedented change, the story I tell here is different. If the twentieth century swirled with change, perhaps most rapidly in the 1960s, the story I tell of that decade reflected an extreme lack of change. These four protests reveal a common theme, unaffected by spatial boundaries: throughout the United States in the 1960s and early 1970s, student-athlete protestors were not conceptualized, treated or disciplined like student protestors. Rather, they were conceptualized as labor and their protests disciplined like labor protests, with universities using strategies from the days of unbridled industrial capitalism in the late nineteenth and early twentieth centuries. Student-athlete protestors in the 1960s were thus disciplined like labor because they were always thought of as laborers in training from the outset of organized team sports in the nineteenth century. Coaches and universities were able to suppress student-athlete protest for four main reasons:

1. Starting at the turn of the twentieth century, before the traditional rise of the capitalist university, athletic departments were structured like and operated similarly to corporations and embraced coercive, hierarchical labor management strategies, most prominently scientific management principles and anti-labor policies.
2. Even earlier--beginning in the 1890s--many coaches, athletic directors and administrators claimed that contemporary methods of labor management were vital epistemological methods to teach student-athletes proper work ethic.
3. Athletic departments became important capital generators for universities in the twentieth century, and student-athletes' off-field labor helped defray the costs associated with university athletics and provided cultural and symbolic capital to universities as a whole.
4. In the 1960s, coaches, athletic departments, students and fans alike believed that Black Power and Black Radical Movements would corrupt universities and destroy amateur athletics.

The convergence of new shifts in policy and long standing conditions produced what I call negative space, a vacuum in which athletic departments were largely isolated from broader social, legal, and economic trends of the twentieth century. Traditionally, negative space is an artistic technique, and it refers to the empty space around and between the subject(s) of an image. It's usually employed to highlight the subject, while fading into the background. I use this term because the vacuum in which athletic departments existed throughout the 20th century was slippery, hidden, and faded into the background of the spectacle of sport. University athletic departments having largely separated themselves from the broader university apparatus early in the twentieth century left them largely immune to broader socio-political trends throughout the twentieth century. Student-athletes at universities were insulated from broader cultural changes for students, like the fall of *in loco parentis*, (in place of the parent) beginning in the 1950s.⁹ Student-athletes were also insulated from socio-legal reforms that broadened student protections, highlighted by *Tinker v De Moines* in 1969, in which the Supreme Court ruled that students' First Amendment rights could not be infringed upon by schools or universities unless they would substantially

⁹ *In Loco Parentis* was a traditional responsibility established in the 19th century in which universities took legal and social responsibility of students in the place of their parents, giving universities an enormous amount of power over students' academic, social and political lives on campus.

disrupt school activities or infringe upon constitutional protections of other students.¹⁰ At the same time changes to the terms of labor, like New Deal reforms and constitutional protections, did not protect student athletes. As a result, student-athlete protestors in the 1960s faced a disciplinary apparatus that could employ a variety of strategies to suppress their protests with few, if any institutional, or outside constraints on its power.

Race also helped facilitate universities' use and reconstruction of negative space to subdue student-athlete protests and ignore their demands. Though negative space existed within mainstream, essentially all-white, university athletic programs before racial integration, integration provided further legitimacy for the space's existence. This space allowed coaches to argue vociferously against Black liberation, both as an idea and pragmatically, while disguising their racist intent by arguing that they simply wanted to preserve authority traditionally provided to the position. Black student-athletes' claims for more robust protections, in the minds of university athletic departments, proved an existential threat to the ideology of student-athleticism, thus endangering student-athletics as an economic, social and cultural project. The narrative that student-athletes required a firm hand to prevent them from making life-altering "mistakes" was all the more compelling to some audiences if the athletes were Black, and, as this dissertation will lay out, claims that Black student-athletes made unintentionally provided support for the claims of white coaches against Black athletes. Negative space provided the tools for coaches and athletic departments to negate the damage these "existential threats" posed to amateur athletics ideologically and in practice.

The ways administrations responded to each protest reflected a particular similarity with strategies businesses had used to discipline and manage employees throughout the nineteenth and twentieth centuries while also demonstrating a unique way in which universities used negative space to defuse protest movements. For example, district, state and federal courts often ruled in favor of corporations during labor disputes in the twentieth century. Corporations often claimed that employees were in need of paternalistic management in order to not simply be productive laborers, but more successful citizens.¹¹ Similarly at the University of Wyoming the athletic department teamed with both the district court and court of appeals to remove constitutional protections from student-athlete protestors by arguing that student-athletes were perpetual representatives and thus required special types of management. Corporations also worked with local and state governments in a variety of different ways to either increase profits, or concretize control over production processes or labor movement. However, if local and state regulations interfered with their business, some corporations defied these regulations to increase profits. Though they did so for different reasons, some athletic departments defied local and state regulations to further control over student-athletes. For example, at Syracuse University, student-athletes petitioned the local Human Rights Commission for relief, alleging racial and workplace discrimination. After investigating into the matter, the Human Rights Commission ruled in favor of petitions from the university's football team. However, the head football coach, supported by the athletic department, simply determined that, if the dismissed athletes wanted to regain entrance to the university and their team, they would have to renounce the local government's findings.

¹⁰ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, (Supreme Court, 1969)

¹¹ *In re Debs*, 158 U.S. 564 (Supreme Court, 1895), *Duplex Printing Press Co. v. Deering*, 254 U.S. 443, (Supreme Court, 1921), *Truax v. Corrigan*, 257 U.S. 312 (Supreme Court, 1921)

Syracuse University's manipulations of local and state governments mirrored how corporations could ignore state and local regulations if it was for their benefit.

Though athletic departments could leverage courts and local governments, negative space afforded many options to departments looking to suppress student-athlete protest in other ways. Another corporate tactic universities adopted was to delegitimize worker dissatisfaction by providing small concessions to workers in exchange for enormous concessions by workers. Oregon State and the University of California-Berkeley both implemented this strategy. At Berkeley, the university was forced to admit that racism was a factor within their athletic department; however, they denied its systemic nature. As a result, the athletic department was not forced to make substantial, if any, change to its operations. Student athletes' most transformative demands were simply ignored.

Labor, Protest and Capitalism: Historiographies and Contributions

This dissertation contributes to four historiographical areas: labor history, histories of capitalism, African American history via the Black Freedom Struggle of the 1960s and 1970s and histories of student protest. With respect to the first, it is a corrective to a tendency to omit all sport from labor history. Indeed, even works that include drug dealers as a type of laborer do not encompass professional or student athletes in their notion of the worker.¹² In his article about Twentieth Century US labor history, Chad Pearson discusses the trends of labor history in the Twentieth Century, and notes the new innovations of labor historians in the twenty first century. This dissertation adds to this literature by adding to the historiographies of the Gilded Age and Progressive Eras, and Twentieth Century labor histories.

University athletic programs are often left out of the histories of the Progressive and Gilded Eras, particularly when discussing the transformation of the American workplace into an industrial economy. Daniel Rogers discussed the role of play in mooring older notions of American Protestant work ethic in a rapidly evolving Gilded Age, but he did not discuss how organized sport helped in this process.¹³ In his brilliant exploration of labor processes and capitalism, Harry Braverman thoroughly explored the development of the production process and labor process in capitalist societies, but did not consider organized sport's role in disseminating information about these labor processes.¹⁴ Additionally, neither Braverman nor Rogers consider student-athletes as workers, even though coaches' authority over student-athletes possessed important similarities to management's authority over labor. In the nineteenth century, sport made the new industrial economy relatable, and by extension, labor within this new economy relatable. In other words, organized sport, to theorists, social commentators and some employers, was supposed to instill the workplace values of industrial capitalism: respect for managers with increasingly amounts of authority over them, their workplace behavior, and their labor processes. Organized sport was largely successful in these endeavors. For instance, David Montgomery argues in his influential discussion of control in the industrial workplace in the nineteenth century that factory managers

¹² See for example Chad Pearson, Twentieth Century US Labor History: Pedagogy, Politics, and Controversies, Part Two," *History Compass*, (Aug:2018, Vol. 16 Issue 8), <https://doi.org/10.1111/hic3.12479>.

¹³ Daniel T. Rodgers, *The Work Ethic in Industrial America, 1850-1920*. (Chicago: University of Chicago Press, 1979).

¹⁴ Harry Braverman, *Labor and Monopoly Capital: The Degradation of Work in the Twentieth Century*, (New York: Monthly Review Press, 1974).

attempted to assert systemic dominance over workplaces by establishing strict workplace hours, increasing the amount of surveillance over production processes. Workers responded with unprecedented amounts of resistance. In the case of student-athletes, managements asserted systemic dominance over the workplace, and in the context of student-protest in the 1960s, student-athlete's resistance did not rise in the same way that organized labor did.¹⁵

Labor historians also do not consider coaches' control over athletes as forms of labor management, even though coaches successfully argued that they should be allowed to manage and discipline athletes like labor because they represent a unique hybrid of students and labor. Though student-athletes are often not included within traditional forms of labor management, student-athletes were among the few employees who still operated under workplace control mechanisms that resembled industrial capitalism in the twentieth century. As Neville Kirk noted, in the early twentieth century employers attempted to subordinate intransigent labor to the whims of capital with the assistance of state institutions.¹⁶ While the state did not interfere in universities and their athletic departments, they employed strategies to subordinate student-athletes while avoiding the growth of the regulatory state in the early twentieth century.

Athletic departments were able to avoid these regulations because of negative space: it simultaneously hampered resistance movements and allowed administrators to claim control over areas of life that many managers outside the university could not. The ideological and pragmatic separation of the athletic department from the university facilitated this. Athletic departments claimed authority over when student-athletes could take classes, their bodily autonomy, including the length of a player's hair, their financial information, and even romantic lives. This did not change as the twentieth century progressed. In 1970, coaches' managerial tactics and authority were essentially unchanged from 1910. Sport thus provides a lens to demonstrate how management ultimately leveraged its power over labor; organized team sports, like football and basketball, focused on reorienting student-athletes into accepting the innate power of managers—in their case coaches—over their workplace and personal lives.

Universities and the NCAA endowed coaches with immense power over disciplinary measures to ensure student athletes were compliant laborers. From the nineteenth century onward, coaches could discipline or dismiss players for nearly any reason, restrict student-athlete's ability to take certain classes, regulate their wages, and later on scholarships, without oversight, and even place restrictions on their personal lives. This gave them broad latitude to suppress student athlete labor protests. These particular types of labor management centered around a type of industrial labor discipline and was rooted within debates over how corporations should manage labor in the late nineteenth century, and the rise of management as a branch of "scientific" rationality.

Historians of capitalism have not acknowledged the use of cutting edge capital and labor management techniques in sport, but it occurred, most prominently with scientific management.¹⁷

¹⁵ David Montgomery, *Workers' Control in America: Studies in the History of Work, Technology, and Labor Struggles*, (Cambridge: Cambridge University Press, 1980).

¹⁶ Neville Kirk, "Capitalist Development and the Transformation of Labour," in *Labour and Society in Britain and the USA Vol. 2* (Vermont: Ashgate Publishing Company, 1993).

¹⁷ Jonathan Levy, *Ages of American Capitalism: A History of the United States*, (New York: Random House, 2021). In his magisterial discussion of American Capitalism, Levy does not mention sport. Sven Beckert and Christine

Advanced by Frederick Taylor and other industrial relations theorists, this theory of management analyzed and synthesized production and reorganized workplaces to improve economic efficiency and labor productivity. Scientific management required the systemic removal of authority, particularly temporal-based authority, from labor in the name of scientific progress. Thus, the theory suggests that, in order to solve the problem of inefficient and intransigent labor, workers should have no authority to determine the conditions of their labor. Scientific management was very popular with corporations in the early twentieth century. Though scientific management was not implemented to the extent that Frederick Taylor and other industrial relations theorists advocated, it still redistributed authority from employees to management: by 1920, employers possessed far more control over workers' workplace lives than they had in the nineteenth century.¹⁸

Industrial relations theorists described scientific management as primarily a strategy for production, but it played an important role within the history of student-athlete protest because these principles helped structure the transformation of student-athletes into employees and coaches into managers. Indeed, coaches may have implemented it more effectively than any other employers. Negative space made this possible, and scientific management principles were baked into the very fabric of amateur athletics. Throughout the twentieth century, universities removed control of university athletics from students to the upper ranks of university management while coaches became increasingly professionalized. Coaches also instituted schedules that increasingly restricted student athletes free time, determined where they could live on or off campus, and employed invasive regulations on student athletes' bodies, like hair length requirements.

Athletic departments mirrored policies that corporations used in the late nineteenth and early twentieth centuries in a myriad of ways. Athletic departments used transfer rules, rules that restricted student-athletes from moving to other universities. Transfer rules were inspired by noncompete clauses, legal agreements that were designed to prevent competition between master craftsmen and their apprentices that were developed in the late nineteenth century. Though these clauses were designed to facilitate labor movement, athletic departments inverted the logics of these clauses to prevent athletes from moving to other universities. Until the 1970s, universities also provided coaches with near complete authority for on field and off field matters like housing, restricted the wages of jobs student athletes typically performed, such as cleaning stadiums or janitorial work, in addition to meeting the requirements of competing in their sport, and consolidated behavioral and disciplinary procedures within athletic departments. Though many universities and coaches copied managers, their goals were not identical: the ambitions of coaches and athletic directors differed from managers in how they managed protest. Coaches and athletic directors could either leverage their vast amounts of power to force student-athletes to stay at their institution and delegitimize their protest or dismiss them from the athletic department, and by extension, the university. Thus, coaches became the ideal scientific managers, replete with the authority to train, manage and discipline student-athletes as they saw fit.

This dissertation places Black student-athletes within the boundaries of the Black Freedom Struggle of the mid twentieth century. Throughout the turbulent 1960s, Black students formed much of the vanguard in the Civil Rights Movement, and they often led the charge to integrate

Desan, ed., *American Capitalism: New Histories*, (New York: Colombia University Press, 2018). In the edited volume sport, which would be a prime candidate as a new history, is not discussed at all.

¹⁸ Elizabeth Faue, "Insurgent Labor, 1905-1922," in *Rethinking the American Labor Movement*, (New York: Taylor and Francis, 2017), 42.

universities in part owing to developments like *Brown v Board*, and then to seek full equality in the largely white universities to which they had been admitted in growing numbers.¹⁹ Yet student athletes' role in these fights has been neglected. Most scholarship about how athletics and Black athletes often intersected with both the Civil Rights Movement and the Black Power Movement focuses on seminal moments within the athletic sphere, like the Mexico City Olympic protest in 1968, or ignore them entirely.²⁰ Throughout the twentieth century Black athletes often provided the most visible resistance to white supremacy, and they were often heavily integrated within the Black Freedom struggle symbolically and actively.²¹ Black student-athletes were often a part of this vanguard as the most visible Black people at a given university. In places like Wyoming, they were the most visible Black people in the state.

Black student athletes protested with one foot inside the Civil Rights Movement and one foot inside the Black Power Movement. They publicly advocated for Civil Rights priorities, like integration of housing projects on campus and access to educational resources- tutors and access to classes as examples-that students required to succeed academically. At Berkeley, Wyoming, Syracuse, and Oregon State, Black student-athlete protesters were more militant than Civil Rights activists in that they demanded the power to affect how universities made decisions about Black people. These protestors argued that, if they could not impact how short and long term decisions were made at the university, they would simply be accepting segregation in a different form. In conjunction, Black student athletes argued specifically for improvements as laborers. Black athletes argued for jobs, both for themselves and potential spouses, better treatment by team doctors, or the ability to approach their coaches as a group; as students, they argued for Black coaches in the department, Black administrators in the university, and Black captains in the locker room. Black student-athletes' demands for equitable treatment as laborers and as students fit within many of the demands that Black Power activists and Black Student Union activists argued for outside of the university.

By the 1970s, college athletics had become profitable for universities economically, culturally and symbolically, an industry that was swiftly becoming dependent upon Black labor on and off the field. Coaches and universities mapped ideas of race, racism and racialization onto how they managed student-athlete protest in the 1960s. Not only did athletic departments want to prevent Black students from organizing as Black people, they feared that Black organizations such as the Black Student Union would hamper the labor and capital engendered by collegiate athletics. However, the ideology of college athletics required subservience: an ideology that needs further

¹⁹ Waldo Martin, *Brown v. Board of Education: A Brief History with Documents*, (Boston, MA: Bedford/St. Martin's, 1998), Joshua Bloom and Waldo Martin, *Black Against Empire: The History and Politics of the Black Panther Party*, (Berkeley: University of California Press, 2013).

²⁰ Ibram H. Rogers, *The Black Campus Movement: Black Students and the Racial Reconstitution of Higher Education, 1965-1972*, (Palgrave MacMillan, 2012). Unfortunately, in his magisterial discussion of Black Campus Movements, Rogers does not discuss Black student-athletes. William L. Van Deburg, *A New Day in Babylon: The Black Power Movement and American Culture, 1965-1972*, (Chicago: University of Chicago Press, 1992). In his work, Van Deburg discusses the importance of Mexico City's Olympic protest, but does not consider the experiences of Black student-athletes on university campuses.

²¹ Many Black athletes participated in the Black Freedom struggle in the 20th century. Perhaps the most famous Black athletes that were involved included Joe Lewis, a heavyweight champion in the early twentieth century, Jesse Owens in the 1930s, Satchel Paige in the Negro Leagues in the 1940s, Lew Alcindor, later known as Kareem Abdul Jabbar at the University of California-Los Angeles, and Muhammed Ali in the 1960s.

examination when Black athletes entered into university athletic departments. The historiography of racial capitalism is incomplete without an understanding of how the university, coaches, and athletic department thought about, managed, and conceptualized student-athlete protestors.

My work contributes to our understanding of racial capitalism, the process of deriving social and economic value from the racial identity of another person, in two ways. First, I hope to elucidate the flexibility of racial capitalism. The framework that universities used to discipline Black athletes was refined and tested on white athletes early in the twentieth century. Universities adapted their frameworks to incorporate Black athletes. Many, if not most people assumed that college athletes received socio-cultural benefits in exchange for accepting economic exploitation. These benefits, however, were systematically stripped from Black athletes. Thus, racial capitalism stripped Black student-athletes of both economic benefits and socio-cultural benefits.

Second, I hope to examine how law and capitalism interacted to determine who was excluded from legal protections. As Angela P. Harris argued in her chapter on how race and law interact under racial capitalism: “In its capacity as a tool for maintaining “order,” the law has, in partnership with economics, ruthlessly adopted commitments that have fostered and protected racial capitalism.”²² My project highlights how law fostered and protected racial capitalism in a tangible way in the context of universities: Law was instrumental for how universities maintained negative space. The ideology that excluded Black student-athletes from university and constitutional protections fit snugly within other contexts of twentieth century racial capitalism, in which domestic workers, who were largely Black, did not receive New Deal benefits, Black women were often excluded from post-war employment benefits, and Black soldiers were excluded from G.I bill benefits. However, law at universities functioned a bit differently than in other contexts. The aegis of *in locus parentis* placed the rights of student-workers and student-athletes’ employment rights in the hands of white administrators. Negative space thrived on formal law’s abdication: Black student-athletes’ legal rights were severely circumscribed vis-à-vis head coaches and other members within the athletic department.

Scholars of African American history often discuss how university athletics are enmeshed within capitalist systems. They have argued that the relationship between athletes and universities is, in some cases facially similar to neo-slavery labor-employee relationships of the early to mid-twentieth century. Billy Hawkins, for example, repurposes “internal colonization,” the uneven effects of economic development on a regional basis, to help place Black student athletes’ experiences within the broader historical and social context of exploitation endured by internally colonized people.²³ William Rhoden also argues that student athletes have important similarities to enslaved labor, revealing slavery’s afterlife: in effect, a kind of “neo-slavery”. For Rhoden, college sports as an institution possessed important continuities between slavery and the patterns of physical and economic control inherent to the institution of slavery and the exploitation of Black

²² Angela P. Harris, “Foreword: Racial Capitalism and Law,” in *Histories of Racial Capitalism*, ed. Destin Jenkins and Justin Leroy (Columbia: Columbia University Press, 2021).

²³ Billy Hawkins, “Introduction,” in *The New Plantation: Black Athletes, College Sports and Predominantly White NCAA Institutions*, (Palgrave Macmillan, 2010), 13. He also repositions the relations of white athletes in his analysis, arguing that the primary difference between white college and Black college athletes is that the latter suffers from this internalized colonialism that forces a greater pressure upon Black athletes to succeed athletically.

athletes.²⁴ Rhoden argues that the racial integration of sport to include Black players in the 1950s and 1960s was “a winning proposition for the sport-industrial complex. They could exploit Black muscle and talent, thus sucking the life out of Black institutions, while at the same time giving themselves credit for being humanitarians.”²⁵

To Rhoden, the most egregious part of integration was a two-fold loss of capital: the potential economic capital Black players would have provided to Black institutions, and the cultural capital that successful athletic departments transferred to their respective institution. D. Stanley Eitzen concurs with Rhoden and Hawkins in that Black college athletes’ situation is akin to a form of slavery, noting athletes are compensated only with scholarships and small stipends while major coaches command increasingly large salaries and generate revenue for both the university and the NCAA.²⁶ Eitzen, unlike Rhoden and Hawkin, also acknowledges how coaches surveil university athletes with the blessing of colleges and universities, running drug testing and other oversight of athletes’ off-field activities, forms of hyper-monitoring he compares to elements of chattel slavery, but he only devotes a single sentence to coaches’ control of athletes, while Nixon, Zimbalist and Hawkins do not discuss the topic.²⁷ Harry Edwards’s study of college athletes and student-athlete protest provides the most extensive discussion of coaches’ control, but he focuses more on psychological restraints rather than social ones.²⁸

While the college athletic system has been characterized by disparate power relations between student athletes and coaches, I argue that comparing student-athletes to enslaved persons obscures more than it reveals, particularly when the comparison centers around the lack of payment and loss of control. Perhaps the biggest problem with this comparison lies around agency: the former possessed a measure of agency denied to enslaved people, and their payment is inadequate rather than nonexistent. Indeed, athletic scholarship funds or work program contracts, while they do not reflect student athletes’ market value, were and in the case of athletic scholarships, continue to be, a form of payment recognized as both valuable and exclusive to student-athletes. Particularly in the 1960s, scholarships were seen as quite valuable because the majority of students did not receive much financial aid from other sources.

Perhaps most importantly, focusing around questions of payment, or lack thereof, often obscures labor-based oppression of a non-economic nature. Employers do far more than pay employees; they exercise various amounts of control over employees in their work, and increasingly during the twenty-first century, non-work lives. Through negative space, coaches were able to leverage vast amounts of control over athletes in similar ways to how employers leveraged authority over their workers throughout the twentieth century, in both legal and extra-legal ways. By analyzing how universities exerted power over athletes’ ability to protest in similar ways to how employers managed labor in the late nineteenth and early twentieth centuries, this

²⁴ William Rhoden, “The Race Begins: The Dilemma of Illusion,” in *40 Million Dollar Slaves* (New York: Crown Publishers, 2006), 33.

²⁵ *Ibid.*, 133.

²⁶ D. Stanley Eitzen, “Slaves of Big-Time College Sports,” *USA Today*, September 2000, 3.

²⁷ *Ibid.*, 3.

²⁸ See Appendix B: The Revolt on Campus in Harry Edwards, *The Revolt of the Black Athlete*, (Chicago: University of Illinois Press, 1969), 113.

dissertation seeks to sketch a more complete picture of the relationship between athletes and educational institutions.

This dissertation also reconceptualizes the history of student protest and student radicalism by linking it to student-athlete protest. The rapid changes that the student radicalism and activism of the 1960s made in America have been well documented. Gerard DeGroot described student protest as “a culture, with all the attendant accoutrements: myths, martyrs, ritual, language, costume and formalized behavior.”²⁹ Gunter Minnerup argued that student protest created a “tectonic shift in the structure of society or politics, even if, when the dust settles, the change which results are not what they intended.”³⁰ Tectonic shift is an apt metaphor: the forces that student protestors faced were enormous in size and power and the changes that they argued for were equally as significant. In addition to Vietnam War protests, and Civil Rights protests, student protestors often argued for greater racial, class, and gender representation at universities, arguing that universities should mirror the egalitarian ideals of American democracy. Minnerup described “a growing tension between basic democratic ideals and [the] operating realities of American education,” claiming that the purpose of education at the university level advocated for by university officials diverged from what students believed education should train them to do. He noted, “the purpose of education—to socialize children and bring them into the polity—was at odds with the methods of teaching in the modern era, which emphasized authoritarian methods of school governance in growing contrast to the democratization of American society and culture.”³¹ These ideas inspired growing militancy among student protesters in the 1960s.

As the 1960s unfolded, students increasingly became more militant in their protest against patriarchal methods of education. Though students protested authoritarian policies at many universities, no place was more autocratic on university campuses than the athletic department. In fact, athletic departments were actively encouraged to be dictatorial throughout the twentieth century. Students and student-athletes thus should have been natural allies against the autocratic policies of the athletic department, but this was rarely the case. At all four universities I sampled, many students opposed student-athlete protest, believing that student-athletes, unlike students, needed to be managed autocratically. This combined with the latent racism involved with opposition against Black radicalism to help legitimize athletic departments’ response to Black student-athlete protestors. Thus, my study complicates the democratic ethos of student protest in the 1960s and the tectonic shifts that they desired. Rather than arguing for a similar shift in the athletic department, many white students did not want any kind of change to how student-athletes were managed. I argue that this was because many if not most students did not see student-athletes as fully students. This was because they were managed throughout the twentieth century as a distinct hybrid of student and labor.

Overview of the Dissertation

Following an introductory chapter, this dissertation will be separated into two thematic parts: protests that were disciplined autocratically (Chapters 2 and 3) and protests that were

²⁹ Gerard J. DeGroot, “The Culture of Protest: An Introductory Essay,” in *Student Protest: The Sixties and After*, ed. Gerard J. DeGroot (Longman: New York, 1998), 3-11.

³⁰ Gunter Minnerup, quoted in Gerard J. DeGroot, “The Culture of Protest: An Introductory Essay,” in *Student Protest: The Sixties and After*, ed. Gerard J. DeGroot (Longman: New York, 1998), 5.

³¹ *Ibid.*

managed closer towards how for-profit firms managed protest (Chapters 4 and 5). I draw these lines based on how effectively departments could wield negative space to unilaterally manage and discipline student-athletes. How athletic departments managed and used negative space factored enormously in deciding critical questions about the jurisdiction of the athletic department's policies. In autocratic departments, the coach and athletic director were well-aligned with the university president and/or chancellor. These three/four figures needed to be aligned with each other in order to have an autocratic athletic department. Autocratic departments could establish and wield negative space more easily and effectively, but departments that were not autocratic could effectively wield it as well.

The first chapter analyzes the specific historical processes from the nineteenth and early twentieth century that allowed coaches and athletic departments to discipline student-athletes like labor. Debates over how student-athletes' should be controlled and managed stretch back to the late nineteenth century. Beginning in the 1880s, many social theorists lamented that employees were increasingly intransigent and disconnected from time-honored American ideologies about work ethic and social cohesion. Industrial leaders also noted the difficulty of assimilating employees into a new form of labor organization. Employees were loath to bow to the dictates of managers, a new position, and sacrifice their ability to manage their own time on the job. This discord erupted into violence between employer and employee throughout the nineteenth century, marked most notably by the Haymarket Riot in 1886. Both groups desperately searched for a peaceful solution to labor unrest, and they believed they found a potential solution to their woes: organized team sports. In order to link sport and labor together, coaches and universities argued that they would use organized sport to teach student athletes the essential links between work ethic and a successful career. However, coaches and universities would not collaboratively instruct student-athletes in the way of workplace behavior. To them, coaches needed the unilateral power of managers to properly instruct student-athletes. Thus, they borrowed tactics that employers used from the nineteenth century to the mid twentieth century to discipline and restrict organized labor. These processes all coalesced around student-athletes, transforming them into a hybrid of student and labor, with all of the burdens and none of the protections.

Chapter Two will focus on the University of Wyoming, which disciplined student-athletes autocratically. Following a protest of opponent BYU's racist religious policies in 1969, the head football coach, Lloyd Eaton, removed the protesting student athletes with the blessing of the university administration. Wyoming provides perhaps the most comprehensive example of how negative space operated, and how powerful it could be. Nicknamed the Black 14, the student-athletes were dismissed unilaterally for violating Eaton's rule that student-athletes were not allowed to protest. They responded by filing suit against the university for violating their First Amendment right to protest. However, the state's district and appellate courts ruled in favor of the athletic department and no higher authority heard the case. Thus, with the blessing of the district and state courts, coaches possessed the power to infringe upon student-athletes' constitutional rights in order to properly discipline their team.

Though Syracuse University, the focus of Chapter Three, did not strip their athletes of constitutional protections like Wyoming did, Syracuse's disciplinary policies were equally autocratic. Local newspapers nicknamed the protesters the "Syracuse 8" after they began protesting both the dearth of Black coaches on campus and, unequal, discriminatory treatment according to a player's race. Specifically, the athletes argued that a "double-standard of discipline" that informally existed in the athletic department, that the team doctor's treatment of Black players

was racist, and the athletic department's standing policy of providing academic advising to white players but not Black players. Much like Wyoming's Black 14, the Syracuse 8 were unilaterally dismissed from the team. They appealed their suspension to the local Human Rights Commission, which found in their favor, a decision the head coach outright ignored. The head coach, Ben Schwartzwalder, required that the student-athlete protestors disavow the findings of the Human Rights Committee and their own complaints against the department in order to achieve reinstatement.

Section Two focuses on Berkeley and Oregon State, neither of which had the institutional alignment of Wyoming and Syracuse, and thus utilized different strategies as a result. In both cases the university administration tapped committees that were based outside of the athletic department and superficially attempted to neuter some of the athletic department's authority. However, these committees disciplined student-athletes similarly to their autocratic counterparts: like labor.

Chapter Four focuses on Black student-athlete protest at the University of California-Berkeley. At Berkeley, head basketball coach Rene Herrerias suspended center Bob Presley indefinitely for skipping practice and insubordination for wearing an Afro-style haircut, in opposition to team rules. Though the athletic director Pete Newell wanted to dismiss student-athletes from the university, Herrerias opposed the decision. Presley's suspension sparked Black student athletes across campus to protest against racism within the athletic department. They argued that both the ideology of coaching and the coaching staff itself needed to change, for example, by restructuring how work contracts and housing allotments functioned, in effect making players less dependent on unilateral decisions by the head and assistant coaches. They protested for cultural changes within the department, arguing that the athletic department lacked cultural and racial awareness in how they treated Black athletes. Rene Herrerias actually opposed the dismissal, but did not support the protesters' demands. As a result of Herrerias' opposition to dismissal, Berkeley created a committee to investigate the Black athletes' claims. However, the committee systematically delegitimized the Black athletes' claims. Ultimately, the protesting athletes were retained, but they were left without a mechanism for redress regarding their complaints.

Chapter Five focuses on student-athlete protest at Oregon State, in which Black student athletes, student protestors, and the Black Student Union protested a decision made by football coach Dee Andros that centered around managing the facial hair of a Black player, Fred Milton. During the winter break in 1968, Andros told Milton he needed to remove his "Van Dyke" beard to fulfill the athletic department's "neatness" standard or lose his scholarship. Andros as well as Oregon State's athletic director wanted to dismiss Andros, and by extension, the athletes that decided to protest on his behalf, but the university president opposed the move. The president also made a concession to the protesters in that he created a committee investigating the "prerogative of the coach," but this committee reaffirmed the coaches' authority. It declared that coaches should have the authority to dictate hair policies during the season and student-athletes should have the ability to manage their hair as they see fit, as long as the hair was "neat." Thus, African American players' bodies were being controlled under the guise of objective, scientific and negotiated standards of behavior.

Student athletes at all four universities were thus enmeshed within the cultures of three worlds: the rapidly liberalizing socio-cultural environment of democratic student-led movements; the liberating and individualistic ideology of Black radicalism; and the authoritarian, at times autocratic, administrative culture of university athletics. What swung the balance was that student-

athletes, unlike their student counterparts, were not simply students. They were also essential laborers and laborers in training. In the rapidly changing socio-cultural environment of the 1960s and early 1970s, this irrefutable fact provided universities and coaches shelter in the storm of student athlete protest. The moral imperatives that coaches espoused fused with the corporatization of the athletic department, their dependence on student-athlete's labor on and off-field to create negative space, which allowed coaches to restrict or remove constitutional protections, human rights, and rights afforded to students. Thus, student-athlete protesters were enmeshed in an environment that was not simply autocratic or authoritarian, but one that was resistant to reform from pressures within the university apparatus and outside of the athletic department's parameters. As both students and workers, students paid the price of membership in both groups and received the protections of neither.

Chapter 1. Student-Athlete or University Employees: Student-Athletes, Labor, and Workman's Compensation, 1870-1960

Introduction

In 1954, seemingly frustrated by nearly a decade of scandals around college competition and corruption, the National Collegiate Athletic Association (NCAA), with the blessing of power five conferences, attached the now-infamous clause into student-athlete's contracts: "This award is made in accordance with the provisions of the Constitution of the [NCAA] pertaining to the *principles of amateurism* [emphasis added], sound academic standards, and financial aid to student athletes Your acceptance of the award means that you agree with these principles and are bound by them."³² The rationale behind this clause is nowhere to be found within it, except, by implication, in the phrase "principles of amateurism."

These principles of amateurism, fair play, respect for competition and the game itself, are older than the NCAA itself. As President Theodore Roosevelt emphatically declared in 1905, "the qualities most essential to success were morality and virility, and these could not be developed unless boys engaged in the 'rough sports which call for pluck, endurance, and physical address.'"³³ Decades later this ideal persisted; Walter Byers, the first executive director of the NCAA from 1951 to 1988, and former college football player, argued that "college students playing solely for the honor and joy of it would be good for the country's future."³⁴ At Berkeley, Douglas Tilden created a sculpture that visualized these specific ideals:

³² Walter Byers and Charles H. Hammer, *Unsportsmanlike Conduct: Exploiting College Athletes* (Ann Arbor: University of Michigan Press, 1995), 75. The five power conferences were: the Atlantic Coast Conference (ACC), which represented the East Coast, Big Ten Conference and Big 12 Conference, which collectively represented the Midwest, Pac-12 Conference, which represented the West, and Southeastern Conference (SEC), which represented the South.

³³ Guy M. Lewis, "Theodore Roosevelt's Role in the 1905 Football Controversy," *Research Quarterly, American Association for Health, Physical Education and Recreation*, vol. 40, no. 4 (1969): 719.

³⁴ Walter Byers, "Full Rides in the Name of Amateurism," 65.



The football players in the sculpture perfectly represent the ideals that President Roosevelt and many others so dearly cherished. One athlete is bandaging the others' ankle so that the injured athlete can go back into the game. The game has been sufficiently "rough," in the president's term, to produce the injury, and the athlete is going to demonstrate "endurance and physical address" by going back to the field as soon as he is able. These athletes were the embodiment of pluck, endurance and morality and these were the principles of amateurism that supposedly defined college athletics. Many educators and administrators from both the NCAA and major universities sincerely believed that college athletics distinguished itself from its professional counterpart by embodying the ideals that Roosevelt espoused nearly a half century prior.

It is clear, however, that universities' relationship to student athletes was not designed merely to maximize the students' "honor and joy." Rather, they managed the students as profit-producing labor, arguing that doing so would teach student-athletes the essential links between sport and work. William H.P Faunce, President of Brown University, passionately articulated these links in a speech to the NCAA in 1915 passionately argued:

"But can we not show the eager athletic student that the abiding satisfaction of life is in doing a fine piece of work, whether in the laboratory or on the gridiron? Can we not persuade him that skill and strategy and dauntless courage are fine things to witness, or to share, whatever the final score may be? Every carpenter has honest pride of craftsmanship, every real engineer takes satisfaction in the building of the bridge, as well as in the

commission he receives. Every honorable surgeon finds his joy in the operation more than in the fee. Indeed, here is the touchstone of effort.”³⁵

Faunce’s argument mirrored coaches’ assertions about the benefit of organized sport at universities. Coaches argued to university presidents that they were best suited to teaching athletes and broader audiences how to adapt to massive shifts that industrialization caused. Student athletes would learn how to maintain self-discipline and focus, respect new norms of time, working in a team, obedience to authority figures, and handling new ideas about time in the workplace amongst numerous other lessons. Universities from the late nineteenth century into the mid twentieth century reinforced values that would prove useful to the new industrial economy such as self-discipline and obedience to authority. In order to instill these values, universities, with assistance from state courts, would carve out negative space for athletic departments to operate within.

In order to properly prepare athletes for the workforce, universities borrowed tactics that employers used from the nineteenth century to the mid twentieth century to restrict labor movement. Most prominently, universities employed transfer rules, which mirrored non-compete clauses, to restrict student-athletes from moving to other universities. Universities also provided coaches with near complete authority for on-field and off-field matters like housing, restricted the wages of student-athletes for on and off the field labor, and consolidated disciplinary policies to athletic departments. All of these provisions, as we will see, required negative space to enact.

Debates over how student-athletes’ labor, how were controlled and managed stretch back to the nineteenth century. Indeed, some of the most pressing questions that universities faced by 1920 circled around how to pay for, and benefit from college athletics: how much could universities pay student athletes, what constituted a “legitimate” university job, and could student athletes receive scholarships. By the 1950s, questions of how universities would treat amateur athletes in football and basketball reached a tipping point. The ideology of amateurism seemed to wear thin to some university presidents. In one of its most famous examples, in 1951 news broke that bookies were paying the City College of New York (CCNY) point shaving scandal of 1950–51 in which basketball players at four schools in New York and three schools in the Midwest conspired to “shave” points.³⁶ Shaving points did not exactly fit President Roosevelt’s romantic ideas about the benefits of amateur sports. How could universities justify calling student-athletes just students when outside forces gambled and profited on their games?

However, paying athletes for playing sports, anathematic as it was to the NCAA and university officials, was not their primary fear by the mid-1950s and 1960s. Both the NCAA and major university officials feared losing unilateral control over how their athletes would be categorized and classified, and they worried that this loss of control would limit their formal and informal authority over student athletes from universities and coaches. The scandal confirmed what some athletic directors and university presidents suspected: student athletes needed to be subjected to even greater amounts of control in order to prevent these types of “moral lapses.”

³⁵ William H.P. Faunce, in *Proceedings of The Tenth Annual Convention of The National Collegiate Athletic Association*, National Collegiate Athletic Association, Special convention Intercollegiate Athletic Association of the United States, (United States: Gov, 1915), December 28, 1915, 53.

³⁶ Charles Rosen, *Scandals of '51: How the Gamblers Almost Killed College Basketball* (New York: Holt, Rinehart and Winston, 1978).

Yet, university presidents and chancellors did not foresee that their control over student-athletes could come under jeopardy for an unlikely reason: workman's compensation claims made by student athletes. These fears manifested in two court cases in Colorado that focused on workman's compensation for student athletes: *University of Denver v. Nemeth* in 1953, and Colorado's *State Compensation Ins. Fund v. Industrial Commission* in 1957. In the former, Ernest Nemeth, a student athlete who was permanently injured as a result of working for the University of Denver, sought workman's compensation benefits. Nemeth won his case because the court found that Nemeth was an employee of the university, and therefore eligible for workman compensation benefits. This ruling created a brief ideological legitimacy crisis for universities and the NCAA.³⁷ How could universities maintain the current hierarchy when state courts disputed their amateur status? In *State Compensation v. Industrial Commission*, the State Supreme Court overruled *Nemeth*, ruling that student athletes were not employees of their respective universities, that athletic departments were unique spaces in which the traditional employer-employee relationship did not apply between student athletes and coaches. But universities still faced a serious legitimacy crisis because at least one state court determined that student-athletes were employees; as I will discuss in further detail later on, universities could not afford workman compensation payments to student athletes. Universities and the NCAA solved this existential problem by reclassifying students that played sports into student athletes. This reclassification reified the immense power differentials between universities and athletes and would dramatically impact how universities handled student-athlete protest movements in the 1960s and 1970s.

Though the creation of the term "student-athlete" seemingly ended the conflict between universities and athletes, the struggle to legitimize universities, and in particular coaches', power over student athletes stretches back into the 19th century with debates over how to think about and train new labor. During the late nineteenth and early twentieth centuries, cultural theorists, coaches argued to university presidents and chancellors that organized sport like football and basketball to building new workplace habits needed to survive the new industrial economy. Organized sport, particularly football and basketball, were quickly linked with creating more effective, efficient, and compliant workers. This view justified unique disciplinary and regulatory policies for student athletes in order to train them for life outside of the academy. These processes all coalesced around student athletes, transforming them into a hybrid of student and labor, with all of the burdens and none of the protections.

Here, I analyze Gilded Age and Progressive Era thinkers, football and basketball coaching manuals from the late nineteenth century into the twentieth century with workman's compensation cases, and law review articles from the 1950s. I am not the first to analyze any of these sources; Brian Ingrassia analyzes football manuals as well, arguing that they were essential to growth of athletics in higher education, while Braverman and Rogers analyze how the workplace evolved within the context of the Gilded Age and the Progressive Era.³⁸ I attempt to link these two perspectives together: these football manuals reflected similarities and continuities with workplace norms and behaviors from the Gilded Age and the Progressive Era.

The Labor of Leisure: Sport and the Shifting Values of Work, 1880-1920

³⁷ *University of Denver v. Nemeth*, 127 Colo. 385 (Supreme Court of Colorado, 1953).

³⁸ Brian Ingrassia, "The Cultural Cornerstone of the Ivory Tower," in *The Rise of Gridiron University: Higher Education's Uneasy Alliance with Big-Time Football* (Lawrence: University Press of Kansas, 2012), 1-13.

To understand how universities leveraged and legitimized disciplinary policies over student-athlete protestors in the 1960s, we must understand how universities, and by extension coaches, obtained the power to reclassify athletes into student athletes. Higher education was increasingly integrated within American culture in the mid nineteenth century. As Brian Ingrassia notes, before the Civil War, universities were relatively local or regional, educating elite students within a localized area.³⁹ Thus, universities' influences as cultural, or bodies that transformed students into laborers were limited. After the Civil War, universities, with assistance from the federal government, redefined traditional pedagogical norms. Traditionally, universities, and faculty attempted to instill "Christian" mental, moral, and physical discipline to resist "corruption" that capitalism seemingly brought with it.⁴⁰ Increasingly in the mid to late nineteenth century, universities, encouraged by the federal government, began to educate students on how to properly adjust to capitalism, normatively and ideologically, not to resist its corruptive aftereffects.

Perhaps the clearest middle-class evaluation of the problems between labor and capital was Jane Addams, one of the nineteenth century's most prominent reformers. Addams recognized that laborers were increasingly angry with working conditions in factories and other industrial hubs. As a result she argued that workers needed to understand *that they were part of a larger whole*: "A worker could be content to labor on a part," she argued, "if he knew it were the part of something larger."⁴¹ Without this crucial knowledge, Addams argued that workers would lose self-discipline, and the social fabric would disintegrate.⁴² She also called for a greater sense of mutual dependence among workers to counteract the excessive individualism that capitalism engendered.⁴³ Sport, in Addams' view, would help counter this "excessive individualism." She remarked that sport and recreation could "guard from disaster (excessive individualism) these young people who walk so carelessly on the edge of the pit."⁴⁴

Many middle-class reformers argued for a new method for instilling discipline as a response to the rise of industrial capitalism.⁴⁵ Daniel Rogers notes that many middle-class reformers were treading on uncertain ground: many felt that traditional workplace norms and virtues were eroding at the same time that traditional moral landmarks were unmoored from their agrarian anchors. To reformers, Factories not only ate away at traditional independence in the workplace, industrialization also consumed older pillars of nineteenth century work ethic: that discipline and hard work was the keys to physical, moral, and spiritual independence.⁴⁶ Addams and many other middle-class reformers of the mid-late nineteenth century argued that educational institutions should provide this needed discipline for students for the workplace. Educational institutions transferred the role of self-discipline to sports.

This viewpoint was further legitimized by many high-ranking educators, none more important than Edward Mussey Hartwell, a 19th century professor of biology at John Hopkins and

³⁹ Ibid.

⁴⁰ Ibid., 9.

⁴¹ Jane Addams, cited in Daniel T. Rodgers, *The Work Ethic in Industrial America, 1850-1920* (Chicago: University of Chicago Press, 1979).

⁴² Ibid.

⁴³ Jane Addams, cited in Daniel T. Rodgers, "Play, Repose and Plenty," in *The Work Ethic in Industrial America, 1850-1920* (Chicago: University of Chicago Press, 1979), 89.

⁴⁴ Jane Addams, *Twenty Years at Hull House*, (NY: Macmillan, 1910), 351.

⁴⁵ Ibid., 124.

⁴⁶ Ibid., 95.

one of the forefathers of physical education classes. In his opinion, sport linked manliness and work ethic together. In his report to the federal government about the need for physical education in the nation's colleges and universities he wrote, "That man, I think, has had a liberal education who has been so trained in youth that his body is the ready servant of his will, and does with ease and pleasure all the work it is capable of; whose intellect is a clear, cold logic engine, with all its parts of equal strength and in smooth working order, ready, like a steam-engine, to be turned to any work."⁴⁷ Sport provided bodily and mental training to be used for "any work," but the reference to the steam engine suggested that the work should be kept with industrialization in mind.

However, sport not only reflected cultural shifts in American life; the rise of university athletics reflected the need for industrial labor in late nineteenth century America and the need to retrain farmers into industrial labor. As a result, several aspects of organized sport took on characteristics required to train others into industrial labor. There were considerable stakes: work was the core of moral life, and thus was the medium through which self-discipline was formed. For some theorists, self-discipline separated races, and made whites superior to all other races. In 1873, the editor of *Frank Leslie's Illustrated Newspaper* argued that sport reinforced the "original Anglo-Saxon instinct" present within every (presumably white) American; central to these instincts was the desire and ability to work.⁴⁸ In 1905, A Committee on Athletics attempted to sway the Academic council about the importance of football to the University of California-Berkeley: "[Football] gives an opportunity for a fine discipline affecting both player and spectator. The committee believes in football. It believes that a hard game involving physical contact and engaging for the time all the energies of the players belongs in an Anglo-Saxon community."⁴⁹ The committee further added: "Good college sportsmen are bound to be better sportsmen in business life than men who are only interested in results."⁵⁰

Other Progressives argued that America's fledgling dominance on the world stage and the social fabric depended on the centrality of work in American life. Without it, the American population would cease to be a dominant power internationally, and would lead to social dislocation domestically. Dudley Sargent, an assistant professor of physical education at Harvard in 1875, agreed, arguing that sport "improved the physical condition of the mass of our students, and to give them as much health and stamina as possible, to enable them to perform the duties that await them after leaving college."⁵¹ The *Chancellor*, a newspaper in Boston, argued in 1901 that organized sport played a key role in the health and betterment of students: "If they compare the two, however, they will see that a school that does not have athletics is always made up of slow, sleepy students. Why? Simply because athletics are the means of quickening the senses. To be a successful athlete, one must be able to see, think, and act quickly and intelligently, and above all,

⁴⁷ Edward Mussey Hartwell, *Physical Training in American Colleges and Universities*, (Washington: Govt. Printing Office, 1886).

⁴⁸ "The Athletic Congress," *Frank Leslie's Illustrated Newspaper*, 22 November, 1873.

⁴⁹ Report on the Football Situation, by the Committee on Athletics of the Academic Council, 1906, Cu-5, Box 3, ser. 1, Records of the Office of the President, University of California Berkeley Bancroft Library Special Collections, University of California-Berkeley, 3.

⁵⁰ Ibid.

⁵¹ Isabel C. Barrows, ed., *Physical Training, A Full Report of the Papers and Discussion of the Conference Held in Boston in November, 1889*, (Boston: George H. Ellis, 1890), 68.

to be able to concentrate the mind on the subject.”⁵² These traits, thinking and acting quickly and intelligently, were critical tools needed to manage workers in the workplace of a rapidly industrializing America.

By the early twentieth century, organized team sport increasingly was a means through which to pass values that would prove useful in the newly industrial workplace. Not only did sport intrinsically require work to participate in but both the school and the audience had to have confidence in their team’s will to win because of their ability to outwork their opponents. Sweat thus defined what organized sport meant, and what athletes and participants must do on and off the arena. Regular exercise would provide both reinforcement and release from the mental stress within and outside the classroom, as well as instill a sense of order and discipline.⁵³ Physical exercise had become compulsory in Boston public schools by the mid 19th century, foreshadowing this shift in public schools throughout the United States by the twentieth century. A chant supporting the football team by a public school in Boston in 1901 exemplifies the understanding that the underlying logic of sport was labor:

Hurrah, hurrah, we’ll be the champion yet,
Hurrah, hurrah, for all the boys who sweat,
For we’re the boys from the English High
And we’ll get there, just you bet,
Rah, rah, rah, boys for High School!⁵⁴

Schools weren’t the only socio-economic entities that recognized the potential of sport as a means of training workers. Corporations quickly recognized sport as effective in creating, instilling, and evaluating proper workplace norms. Most prominently, George Pullman, founder of Pullman corporation created Pullman Company Town in 1880 as an attempt to create a utopia that eliminated the social problems that plagued the 19th century: poverty and labor unrest. Key to this project was subordinating labor to the whims of capital; Pullman banned labor unions, and any type of negotiations over the conditions of labor. Pullman also thought that athletics would be a key component to removing labor strife by training children from a young age to “respect” authority figures and provide adults with a proper way to reinforce these values.⁵⁵ Every child in the town’s school had compulsory physical education, and boys and girls had access to an entire gymnasium devoted to fitness equipment, a precursor to afterschool sporting activities in the 20th century. Adults could join various team sports on teams sponsored by Pullman’s corporation; the

⁵² Stephen Hardy, “Exercise & Sports for the Schools,” in *How Boston Played: Sport, Recreation, and Community, 1865-1915* (Boston: Northeastern University Press, 1982), 115.

⁵³ *Ibid.*

⁵⁴ *Ibid.*, 114.

⁵⁵ Wilma J. Pesavento, “Sport and Recreation in the Pullman Experiment, 1880-1900,” *Journal of Sport History*, vol. 9, no. 2 (Summer, 1982): 38–62.

only sports available for sponsorship within the town's borders were team sports, with the lone exception of shooting.⁵⁶

In her study of Pullman's athletic program, Wilma J. Pesavento argued that sport played a critical role in alleviating conflicts between capital and labor because sport provided a social lubricant for employees.⁵⁷ For Pullman thus, sport served not just as a distraction from the throes of industrial life, but as a medium to convey ideas vital to industrial capitalism: hard work for a "common good," teamwork, and obedience to authority within its workforce.⁵⁸ Most presciently, one company executive argued: "Given a square-deal management, industrial amateur athletics organized on a businesslike basis will promote plant morale quicker than any other single method."⁵⁹ By 1920, over one million industrial employees had access to recreation activities provided by their companies.

The federal government agreed with both Pullman and middle-class theorists' arguments that sport enhanced moral and physical health, and concluded that organized sport helped generate better, healthier workers beginning in the nineteenth century. John Eaton and H.L. Muldrow, writing for the Department of the Interior in 1886, argued that sport enhances manual labor's ability to "promote the health of the body and the mind of students."⁶⁰ Teddy Roosevelt's relationship with sport is well known, but in 1924, Calvin Coolidge echoed Teddy Roosevelt's view of the matter: "Particularly within the last decade, the outdoor recreation spirit among our people has increased rapidly.... It is almost idle to emphasize their value to the country. The physical vigor, moral strength, and clean simplicity of mind of the American people can be immeasurably furthered by the properly developed opportunities for the life in the open afforded by our forests, mountains, and waterways."⁶¹ Echoing the Roosevelt and Coolidge in 1927, Chauncey Hamlin, the founder of the International Council of Museums, also argued at the National Conference of Outdoor Recreation that leisure sports, particularly team sports, were crucial for economic growth: "The economic significance is so great that outdoor recreation which at present is a development largely uncontrolled, unregulated, and often vulgar in expression must find a stable foundation in the Nation's economy because public welfare will demand it."⁶²

Though Pullman, other corporate executives, and the federal government agreed that sport could be a beneficial salve for labor relations, and could teach extremely important lessons about work ethic, respecting authority figures, amongst other lessons, they ran into a problem: neither

⁵⁶ Wilma J. Pesavento and Lisa C. Raymond, "'Men Must Play; Men Will Play:' Occupations of Pullman Athletes, 1880 to 1900," *Journal of Sport History*, vol. 12, no. 3 (Winter, 1985). The only non-team sport eligible for sponsorship was shooting.

⁵⁷ Wilma J. Pesavento, "Sport and Recreation in the Pullman Experiment, 1880-1900," *Journal of sport history*, vol. 9, no. 2 (1982): 38-62.

⁵⁸ George Pullman, in *Ibid.*, 36.

⁵⁹ *Ibid.*, 30.

⁶⁰ John Eaton and H.L. Muldrow, "Letter," in *Physical Training in American Colleges and Universities*, ed. Edward Mussey Hartwell (Washington: Govt. Printing Office, 1886), 1.

⁶¹ Calvin Coolidge, cited in "Morning Session: Meeting of the Advisory Council of the National Conference on Outdoor Recreation," *Proceedings of the National conference on Outdoor Recreation* (1924), 3.

⁶² Chauncey Hamlin, "Morning Session: Meeting of the Advisory Council of the National Conference on Outdoor Recreation," *National conference on outdoor recreation: Proceedings of the National conference on Outdoor Recreation*, (Washington: Govt. Printing Office, 1926), 4

the federal government nor the nation's corporations taught people how to play team sports. It fell to universities and professional coaches to fill the gaps and demonstrate how sport facilitated greater work ethic.

Coaching Discipline: How University Athletic Programs Imposed Nineteenth Century Labor Discipline Upon Athletes

Coaches and universities claimed that organized sport would not only become a link between work and morality, but they would instruct student athletes such that they would appreciate and reproduce this link. Universities and cultural theorists increasingly decided that sport could not be student organized; it would be impossible to regulate the moral and physical health of athletes and viewers if students were in positions of authority.⁶³ In order to achieve these lofty goals, universities, coaches needed to classify student-athletes as not just projectors of moral authority, but actual beneficiaries from moral authority. Thus, coaches became regulators of moral culture for student athletes within and increasingly outside of the athletic arena. Such logic became the basis for arguing that their power to classify moral standards for athletes stemmed from the need to discipline athletes much as workers were disciplined. Coaches linked work and moral health to legitimize their authority over athletes.

Industrialization challenged the assumption white Americans had once made: that their labor was theirs to control. Labor vigorously resisted employers' control through standardization and scientific management, but by the early twentieth century, were clearly losing. Perhaps the most important bellwether for this lack of control was how companies and managers removed employee's ability to use their time while working. Morris Rosenfield, a radical poet who wrote in Yiddish, elucidated how employers manipulated time to dictate labor, new work patterns, and surveillance, using a clock as a metaphor, "The Clock in the workshop—it rests not a moment; the maddening pendulum urges me forward; to labor and still labor on.... The clock—I shudder—Dost hear how it draws me?"⁶⁴ A pamphlet The International Harvester Corporation published in 1913 similarly reflects the triumph of managers, commanding their labor force to spend their time according to the company's audible signals of how it should be spent. It depicts such compliance in the first person: "I hear the Whistle. I must hurry. I hear the five-minute whistle. It is time to go to the shop.... The Starting Whistle Blows. I eat my lunch. It is forbidden to eat until then.... I work until the whistle blows to quit."⁶⁵ In a striking connection, coaches had used whistles to discipline athletes' behavior and regulate when activities and drills began and ended since the 1870s.⁶⁶ For example, one of the most famous phrases in sport, popularized by John Heisman, is "you go until the whistle blows." These elements of control in the student-athlete workplace were actively advocated for by many coaches; to them, training future laborers to accept the loss of

⁶³ Richard Swanson and Betty Spears, *The History of Sport and Physical Education in the United States*, (Madison: Brown and Benchmark, 1995).

⁶⁴ Morris Rosenfield, cited in the *New York Tribune*, Published on August 16, 1903.

⁶⁵ The International Harvester Corporation, "English Language Lesson: General," *Workplace Rules*, published in 1913, cited in Herbert Gutman, *Culture and Society in Industrializing America, 1815-1919: Essays in American Working Class and Social History* (New York: Alfred Knopf, 1976), 7.

⁶⁶ The first whistles for sport were mass produced by J. Hudson and Co. in 1883, but some historians date the use of whistles back to the 1870s.

control over their own time would prove extremely useful in the rapidly changing American workplace.

American football employed these new modes of classification and discipline more than any other sport. Invented in the late nineteenth century, the sport exploded in popularity by turn of the century and was played on most college campuses by the 1920. The sport became a particular focus of university control. However, keeping with 19th century workplace culture, they needed managers for these newly burgeoning football teams. Coaching shifted from a hobby that students often did into a professional job in the context of growing rationalization and quantification of work during the Progressive Era. Students were thus largely divested from coaching authority by 1910, in conjunction with an increase of professional coaches. Brian Ingrassia notes that many aspiring coaches attempted to become faculty members. They employed rhetoric of science and pedagogy, published books about coaching for football coaches, players and fans, and held official classes recognized by the university that students, often their players, could enroll in.⁶⁷ Such books often repeated the argument that university sports programs were a means of training the nation's workers. Some even argued that *watching* football would make workers more moral and better workers.

Perhaps the most influential of these manuals was written by the legendary Walter Camp, who played and coached football at Yale in the 1880s, player, is generally known as the "Father of American Football." His was the first book by a coach to argue that spectators should know the rules of the game that they were watching for their *moral* benefit. His manuals, *American Football* (1891) and *Football* (1896) helped define and legitimize college football coaches as faculty members. They explicitly advised coaches to treat and discipline players like laborers. Camp argued that while football's similarity to wartime drills and conduct played a role in football's popularity, he also argued that football was not merely a proxy for lessons learned during times of war.⁶⁸ As Camp notes, football, a uniquely American arena for scientific management and more efficient labor.⁶⁹

Work and the language of work appears throughout Camp's books. For example, his chapter titles referenced different types of labor.⁷⁰ When discussing an average day in the life of a varsity athlete, Camp causally noted that it was relatively rare for coaches not to find enough "work" for players to maintain their physique.⁷¹ He advocated a daily tactical meeting with all the players on the team before lunch, which he called the "Morning Work." In this session, players would learn new tactics and techniques, which would be employed in the afternoon practice.⁷² Camp explained that it should be "supervised by the coach who has this department of the work in charge, and the captain (a player designated by the coaching staff to help lead the team on the field) will rarely be present, the only spectators being a few specimens of the genus 'small boy,'

⁶⁷ Emmett Angell, *Play: Comprising Games for the Kindergarten Playground, Schoolroom and College* (Boston: Little, Brown, 1910).

⁶⁸ Walter Camp and Lorin F. Deland, *Football* (Cambridge: The Riverside Press, 1896), 55.

⁶⁹ Walter Camp, "The Captain and the Coach," in *The Book of Foot-Ball*, (New York: The Century Co., 1910), 334.

⁷⁰ Walter Camp, "Table of Contents," in *Football*.

⁷¹ Walter Camp, "Training," in *American Football*, (New York: Harper & Brothers, 1891), 140.

⁷² Walter Camp, "Training," in *American Football*, 144.

who will freely criticize and encourage the players.”⁷³ The very nature of football, according to Camp, focused around how well a coach could handle the “problem of the division of labor.” For Camp, the division of labor applied to how the coach managed on field matters, like if a player should play a specific position, but it also applied to how coaches should manage and restrict student athlete’s off-field lives as well.

In order to handle the problem of the division of labor, Camp advocated that coaches should be the sole determinators of how student athletes spent their time during the season. The question of time, and how labor can and should spend their time in the workplace was constantly negotiated by employers and employees in the early to mid 20th century. At the same time that Rosenfield lamented the loss of control, Camp molded his training programs around restricting student-athlete’s personal time. Camp argued that to train student athletes for their role on the team, to maximize their moral and employment health, coaches required direct control over the daily life of student athletes. Thus, they actually had far more control over athletes than employers had over workers, in that employers’ control ended when the workday concluded. The chart below reflects Camp’s description of the days of the student athletes he supervised:

A DAY'S TRAINING.

Rise between 6 and 7 a.m.	
Exercise.	A country walk of four or five miles.
Breakfast, 8.	Meat, chop or
	Couple of eggs.
	Bread.
	Tea. ("We never drink coffee.")
Exercise.	Rest for half an hour, and then a brisk walk or run. If morning exercise has not been heavy, a row on the river, terminating about 11 A.M.
Dinner, 12 M.	Meat, beef or mutton (broiled).
	Egg pudding, with currants in it if desired, or other light farinaceous pudding.
	Ale, one glass.
	Wine, one glass (port), or
	Ale, two glasses, without wine.
Exercise.	Rest for an hour, and then on the river again for a hard row.
	"Rowing exercise should be taken twice every day."

⁷³ Walter Camp and Lorin F. Deland, “24 hours in the life of a varsity football player: The Morning Work,” in *Football*, (Cambridge: The Riverside Press, 1896), 79.

Tea.	"Tea, with toasted bread sparingly buttered, with one egg only—more has a tendency to choke the system."
Supper.	Not recommended. When taken, to consist of new milk and bread, or gruel, with raisins and currants and a glass of port wine in it.
Bed about 10. ⁷⁴	

Camp spared no consideration; the chart above was one of eight methods he provided as examples that coaches might want to choose from, but all of the models involved. All of these models that Camp recommended required the coach to possess more control over athletes than nearly any other employer in 20th century America. This particular model allows the coach to dictate what and when student-athletes would eat throughout the course of the day, when student-athletes would wake up and go to sleep, and what exercises student-athletes would perform. The gaps in the chart reflect the understanding that student athletes would take classes, but coaches could also restrict classes that student athletes could take, if it conflicted with training. By doing so, Camp intrinsically linked coaches' responsibilities to manager's responsibilities.

In order to best utilize players, Camp required absolute obedience to the coach. He evolves on this position throughout the 1890s. In his first book, he did not feel obligated to place instructions about discipline. In 1896 his second book devoted a paragraph to the issue, which outlined extraordinary amounts of power that coaches should have over student-athletes:

After courage comes the lesson of obedience. The world has never underestimated the value of a military or naval training in teaching implicit, unquestioned obedience and a fine sense of readiness to accept discipline. Football demands obedience. An army poorly officered becomes a mob; a football team would be even worse off without strict discipline. The biting sarcasm of the coaches must be borne without a thought of rebellion; the unmerited blame must be accepted without even an excuse; every order must be instantly and unquestioningly obeyed.⁷⁵

Camp's paragraph on discipline was extraordinary: not only did he argue that student athletes should not even think about objecting to the coaches' directions, to Camp, coaches could not seemingly mistreat student athletes in any context. Camp's arguments would not be out of place on a factory handout that discussed new labor policies to workers, indeed, Pullman's manuals often repeated the importance of obedience to managers.

Though Camp was the most influential coach that linked athletics and workplace norms together, he was not the only person affiliated with athletics to do so. Similar ideas appear in the writings of Glenn S. Warner, the Athletic Director of the Carlisle Indian School, but more famously known for his "Pop" Warner youth football program. His 1912 book which the title framed as "for Players and Coaches" also explicitly links football and work. Indeed, in a passage saying that players should take "a day or two off" if they began "to lose interest" in football and to find "the

⁷⁴ Walter Camp, "Training," in *American Football* (New York: Harper & Brothers, 1891), 144.

⁷⁵ Walter Camp and Lorin F. Deland, "Effects of the Game on the Players," in *Football*, (Cambridge: The Riverside Press, 1896), 48.

practice...irksome” and to “hat[e] to go to the field,” Warner called playing football the player’s “work.”⁷⁶ Similarly he lamented that injuries often prevented players from doing their “best work” and that tobacco use contributed to a players’ inability to work on the field as well as off of it. Warner frames much of his advice for coaches through the lens of work

John W. Heisman, the legendary Georgia State coach, explicitly tied success in football to success in the workplace, and his view of the coach-player relationship was much like Camp’s. His 1922 book claimed that football provides college athletes with an unbreakable discipline, that from it they learned how to follow nearly any “order” with excitement and without question.⁷⁷ Perhaps most valuable for Heisman, football provided a means to convey to players why work, any type of work, should be done: for the betterment of oneself and one’s teammates, on the field or in the workplace. To this end, Heisman argued that coaches should be “masterful, commanding, and even dictatorial.”⁷⁸ Heisman permitted no “back-talk” from his players, and argued other coaches should adopt the same policies. To Heisman, coaches should be “akin to a little short of Czars at times.”⁷⁹ Naturally, it was up to the coaches’ discretion for when they needed to act like a “Czar.” Coaches deserved that amount of authority, in Heisman’s mind, because of the immense amounts of responsibility that coaches possessed over athletes’ future careers as labor and their scientific understanding of the game and of the athlete’s bodies justified their exertion of such authority. Harding H. Jones, the athletic director and head coach at the University of Iowa, referenced both a government’s control of its citizens and an employer’s control of its workers in his 1923 book for coaches, stating that players are “trained and labored with zealously and painstakingly for weeks to make [them] fit to a certain responsible position. True [they are] but a cog but what use in any machine is the rest of the wheel if even one cog slips? To break training without permission is nothing more or less than an act of treason.”⁸⁰

The recollections of Barry Krauss, who played football for the University of Alabama in the 1950s show the aftereffects of Camp, Heisman and Warner’s suggestions. Players went to extraordinary lengths to comply with coaches’ demands, no matter how unreasonable. As Krauss recalled, one of the most famous college football coaches in history, Paul William “Bear” Bryant, told another player at 8:30 in the evening that he must get a haircut before the next day’s practice, at 5 in the morning. As Krauss recalled, “Joe drove 130 miles round-trip that night to have his mother cut his hair. At 5 a.m. the next morning, every coach noticed. It was one of the most admired haircuts ever—just for its sheer defiance of the time-space continuum.”⁸¹ Though Krauss described the situation fondly, it illustrates the massive inequities of power between student-athletes and coaches. Moore clearly expected to be disciplined if he did not comply with the request.

⁷⁶ Glenn S. Warner, “How to Train, and How to Treat and Protect Injuries,” in *A Course in Football for Players and Coaches* (Carlisle, Pennsylvania 1912), 9.

⁷⁷ John W. Heisman, *Principles of Football* (St. Louis: Sports Publishing Bureau, 1922), 8.

⁷⁸ John W. Heisman, “Suggestions to the Coach,” in *Principles of Football*, (St. Louis: Sports Publishing Bureau, 1922), 359.

⁷⁹ *Ibid.*, 359.

⁸⁰ Harding Jones, “Benefits of Football,” in *How to Coach and Play Football*, (Iowa City: The Clio Press, 1923), 6.

⁸¹ Don Shula, Barry Krauss, and Joe M. Moore. *Ain’t Nothin’ But a Winner: Bear Bryant, The Goal Line Stand, and a Chance of a Lifetime*, (Tuscaloosa: University Alabama Press, 2016).

Basketball coaches differed little from football coaches. Invented in 1891 by James Naismith, basketball quickly rose in popularity alongside football. Though the game is far less violent and controlled than football, coaches and pundits made similar claims for it: that basketball provided players with lessons that would prove useful in the workplace, namely self-control and discipline. In one of the first books explaining how to play basketball, George T. Hepbron summarized basketball's contribution to players' sense of self-discipline: "While this is true of all games, it is especially true of basketball. Few other games can give such thorough discipline of self-control. Few are so beneficial to the boy, when properly played, and few so disastrous to character when allowed to run wild, without regard to rules, because of the lack of control and direction."⁸² Pundits argued that basketball was a better environment to hone self-discipline because it lacked the structure of football. Like Warner, Camp and Heisman, Guerdon Messer referred to practice as "work" in his coaching manual *How to Play Basketball*. It was, he argued, the best way to instill discipline and create an indelible bond with one's teammates.⁸³ It fell on the coach, in Messer's mind, to "Drill the team until it was a machine"; this machine would be collectivist in nature, as "all work would be done for the team."⁸⁴ Camp, other coaches and athletic directors thus argued that athletics, particularly college football, did not merely provide moral or physical benefits; it trained college athletes in how to work in a newly evolving America. Coaches and athletic departments, they argued, must properly manage players if they were to receive the full benefits of playing the sport.

Sanitizing College Sports: Athletes and Labor From 1905 To 1950.

Restricting Movement

By the 1950s, student oversight over athletics was largely gone from U.S. university and college campuses. This centralization of authority was a dynamic process throughout the mid twentieth century and was not inevitable. Though coaches argued for unilateral authority to manage and discipline student athletes, many university presidents and chancellors argued against it, with their primary argument that athletes, coaches needed supervision to prevent professionalization. However, in their attempt to prevent professionalization, these administrators, buttressed by arguments made by coaches like Camp and Heisman, actually created a model for student-athletes that resembled industrial capitalism. Thus, administrations claimed they were preserving the amateur nature of the sport and yet borrowed tools of industrial capitalism to preserve amateur athletics. Beginning in 1905, administrators attempted to prevent professionalization through restricting student athletes' ability to move to other universities, imposing work programs that artificially capped athlete's earnings on campus, and subjected them to an extensive disciplinary regime.

1905 was a pivotal year for the centralization of athletics from students to administrators, and turning student-athletes into hybrids between students and labor. Stripping a student athlete's ability to financially benefit from anyone other than their respective university was an important step to this process. New rules that determined who would qualify as student-athletes prevented

⁸² George T. Hepbron, "Character in Basketball," in *How to Play Basketball* (New York: American Sports Publishing Co, 1904), 47.

⁸³ Guerdon Norris Messer, "Duties of the Coach," in *How to Play Basketball: A Thesis on the Technique of the Game* (New York, American Sports Publishing Company, 1921), 93.

⁸⁴ *Ibid.*, 94.

them from financially benefitting from athletics in any way: “no student shall be allowed to represent his college or university who have engaged in or taught any athletic sport for a pecuniary gain or emolument direct or indirect rule, the constitute authorities shall discriminate between the deliberate use of athletic skill as a means to a livelihood and technical unintentional or youthful infractions of the rule.” In response to a suggestion by Theodore Roosevelt that the nation’s universities reach agreement as to what constituted eligibility to play a collegiate sport, the University of Pennsylvania proposed codifying a requirement that athletes who had played professionally be barred.⁸⁵ UPenn also noted that institutions could decline to allow a given athlete to represent them even if they met all of the requirements it laid out.⁸⁶

University administrators also moved to prevent student athletes from changing schools. Athletes who switched universities because they were seeking higher pay from work contracts were known as athletic tramps, a reference to the word’s common meaning at the time of wandering poor laborers, a group that had swelled in the late nineteenth century.⁸⁷ Eliminating athletic tramps played a key role in legitimizing university presidents and coaches’ authority over student athletes. Middle-class reformers and many rural and urban thinkers considered wandering laborers to be a threat to the social fabric and a nuisance.⁸⁸ As early as 1898, the eligibility codes for athletics at Columbia, Harvard, and the University of Pennsylvania required that student athletes express an intention to remain in college throughout the year, accept minimum requirements for their work contracts, a one-year residence transfer rule, and a four-year eligibility rule. Increasingly, however, universities nationwide sought to ban transfers altogether. They were seen as an open challenge to the work ethic involved in industrial capitalism, and the moniker of athletic tramps carried the same implications. David Jordan, Stanford University’s president in 1906, wrote triumphantly that institutions in the country’s western region had gotten “rid of the athletic tramp, who now disgrace the big universities of the Middle West and some of the equally big ones along the Atlantic seaboard.”⁸⁹ Oregon State’s alumni magazine proudly noted in 1919 that the school’s athletic department no longer permitted athletes to transfer into the school: “It is a fact quite generally recognized that a team will reflect the teaching and influence of the coach. The mucker, cheap sport, and financial athletic tramp have no longer a place on an American intercollegiate team. It is a place where one expects to find the gentleman, the scholar, as well as the leader.”⁹⁰ The statement went on, “Probably without a single exception no other man on the faculty is in a position to influence men as is the athletic coach.”⁹¹ This connection between preventing student transfers and the quality of the coach’s teaching and influence reflects the

⁸⁵ Rules proposed by the University of Pennsylvania in accordance with the suggestion of President Roosevelt relating to the urgent need for a simple and uniform eligibility code, 1905, in Lochlahn March, “Penn and Intercollegiate Athletic Associations,” *University of Pennsylvania University Archives and Records Center*, <https://archives.upenn.edu/exhibits/penn-history/intercollegiate-athletics/#Sources>

⁸⁶ Ibid.

⁸⁷ Eric H. Monkkonen, *Walking to Work: Tramps in America, 1790-1935* (Lincoln, Nebraska: University of Nebraska Press, 1984).

⁸⁸ Ibid.

⁸⁹ Letter to Dr. Benjamin Ide Wheeler, written by David Jordan, 1906, Cu-5, Ser. 1, box 24 University of California-Berkeley Records of the Office of the President, University of California-Berkeley University Records, Bancroft Library Special Collections.

⁹⁰ O.A.C. Alumnus, Vol. 4, No. 3 Corvallis, Oregon April, 1919, P.8.

⁹¹ Ibid., 9.

growing power of coaches and the negative space that athletic departments used to strip student-athletes of protections. The head coaches' power was sacrosanct and if stripping players of their right to leave protected this power, then that's the price that needed to be paid.

While the point of view that athletes who transferred for reasons other than money were superior to "tramps" existed in some quarters, administrators made an effort to claim that such reasons could not exist. As morality was of central importance to amateur athletics, if an action was made for a "immoral" reason, it was automatically delegitimized. For example, Dr. E.C. Huntington, a professor at Colgate College, argued in 1915 that student-athletes who transferred rarely possessed other motivations than to obtain financial benefits: "We might be induced to believe that the migration from one college to another was due to a wider range of study offered by the new college, or that such a change favored conditions of health; but we know it is not true. You know there is legitimate transferring and there are illegitimate transfers. There is no use dealing in particulars or going farther into conditions."⁹² He cited an NCAA poll of 23 universities in 1915 in which several universities presidents and chancellors made the case that any student-athlete who transferred should never be allowed to play again.⁹³

Banning athletic tramps was just one way that administrators increasingly restricted student-athlete's ability to move to other universities. After tramping, universities, conferences and the NCAA attempted to regulate legitimate transfers. By the 1930s, transfer rules in some conferences resembled corporate noncompete agreements. The use of such clauses, which prevent employees from working for a competitor or setting up a competitive business for a specified period of time in a specified geographical area, has been documented as early as the fifteenth century, but they became more common starting in the eighteenth century, when they were increasingly used to prevent apprentices from competing with their instructors.⁹⁴ In the late nineteenth and early twentieth centuries courts began to limit the power of such clauses, which they saw as potentially limiting the economic advancement of the nation.⁹⁵

Though they weren't in the same legal category as no-compete clauses, by 1930, transfer policies increasingly mirrored them and ultimately even surpassed their jurisdiction. As of 1929 an athlete who transferred to any university under NCAA jurisdiction could not play their respective sport for a year and would have to pay tuition to the university they transferred to. As the NCAA's jurisdiction stretched across the majority of universities in the United States, universities were able to enact a nation-wide noncompete clause to prevent student athletes from moving.⁹⁶ Negative space played a critical role in this process: the space that athletic departments occupied was increasingly seen as one in which coaches and athletic directors had jurisdiction. Though this process evolved out of a systemic attempt to ban tramp athletes, university presidents,

⁹² E.C. Huntington, *Proceedings of The Tenth Annual Convention of The National Collegiate Athletic Association*, (Washington: Govt. Printing Office, 1915), 51, <https://babel.hathitrust.org/cgi/pt?id=njp.32101063546921&seq=241>

⁹³ *Ibid.*, 53.

⁹⁴ Dan Messeloff, "Giving the Green Light to Silicon Alley Employees: No-Compete Agreements between Internet Companies and Employees under New York Law," *Fordham Intellectual Property, Media & Entertainment Law Journal* 11, no. 3 (Spring 2001): 711-746.

⁹⁵ *Ibid.*

⁹⁶ Howard Savage, "Extramural Relationships" in *American College Athletics*, (New York: The Carnegie Foundation for the Advancement of Teaching, 1929) 202.

administrators and the fledgling NCAA increasingly took steps to regulate and define the legitimacy of movement by student-athletes to other universities. Athletes were not the subject of any concern on the part of the courts and universities obtained wide latitude to limit their ability to transfer.

Corporatization, Centralizing Authority, and Restricting Wages

Transfer policies were not the only relics from industrial capitalism that the NCAA, universities and athletic departments wielded to categorize student-athletes as laborers. Increasingly during the mid-twentieth century, athletic departments, and university organs that handled athletics across the country not only resembled corporations, they were treated like corporations. Not only were students removed from coaching roles, by the 1960s, student government no longer controlled university athletics. One reason for the change was that student-groups simply could not bear the tax burdens of running increasingly profitable athletic programs. The change strengthened the negative space surrounding athletic departments and made athletic departments and coaches even more unaccountable.

Clinton Evans, the general manager of the financial division of the Associated Students of California (ASUC), which was the student government for the University of California at the time, penned a letter to the system's president in 1944 that ASUC's main sources of income were membership cards and income from athletics, principally football, and that this produced net taxable income that the organization found unmanageable.⁹⁷ Many schools within the UC system honored the implicit request; for example, UCLA removed student groups' authority over athletics in 1949, and reallocated it to a Board of Control which consisted of administrators, a majority of faculty members, and alumni: "All financial authority of the ASUCLA including the establishment and modification of budgets....general authority over all employees of the ASUCLA, including the appointment, dismissal and fixing of the salaries of major officers and head athletic coaches; shall be vested in the Board of Control of the ASUCLA, as now constituted, with a majority of faculty members, administrative officers and alumni."⁹⁸

Taxable burdens were to be expected when the university increasingly employed athletes as labor. By the 1940s, athletics programs made controlling athletes increasingly desirable. The wages paid to student-athletes, and the work programs that employed them, were not just paternalistic but rooted within assumptions about work, management and organization from industrial capitalism, in direct contrast with the development of universities in the mid to late twentieth century as pillars of a new economy based on the production of commoditized knowledge.

Work programs were an innovative way for universities to bring in student-athletes without subsidizing them for playing sports. Paul Dodd, a Dean at UCLA, in a letter to the president of the University of California system in 1952, describe such programs as a way to keep the school's "skirts free from violation of the Pacific Conference Code or any other violations of ethical conduct

⁹⁷ Clinton Evans, Letter to Robert Sproul, April 27 1944, Cu-149, Box 32, Records of the Office of the Chancellor, University of California, Berkeley, Control and Administration of Intercollegiate Athletics at Berkeley and Los Angeles, University of California-Berkeley Bancroft Library Special Collections, University of California-Berkeley.

⁹⁸ Records of the Office of the Chancellor, 1949, Cu-149, Box 32, University of California, Berkeley, Control and Administration of Intercollegiate Athletics at Berkeley and Los Angeles, University of California-Berkeley Bancroft Library Special Collections, University of California-Berkeley.

that we desire to maintain within the university of California” as well as a way to teach athletes “solid, thrifty, and honest work habits.”⁹⁹ These programs operated to extend coaches’ control of student athletes for minimal pay. In their regulations for their conference’s work program in 1956, the Pacific Coast Conference stipulated that students would be paid monthly and if they did not work at their jobs full-time [40 hours a week] they would not be paid at all, although they could make up “lost time” in the following month by working more than full-time.¹⁰⁰ Coaches and universities lauded such regulations precisely because they were excessively punitive. Based on these regulations, student-athletes would not be paid at all for any work they completed for a month if they did not complete their allotted amount of hours. This is an expression of negative space: not paying employees for work conducted was legally questionable throughout the twentieth century, but in the context of Athletic conferences, and athletic departments, the policy was framed as a way to “build honest habits” in student athletes.

Though the work that student athletes did was often referred to as “honest,” it seemed like their wages were anything but honest. The Pacific Coast Conference made it policy that students could not play for any of its members if they were paid more than \$1.50 an hour for work they did or if they earned more than \$75 a month from working for their school.¹⁰¹ In a letter to the President of the UC in 1952 Robert Johnson, an administrator at the University of California-Berkeley wanted to highlight the inefficiencies of the student-athletes and proposed a more sophisticated managerial structure to manage student athletes.¹⁰² However, what’s notable is how little athletes were paid in comparison to other employees. As Johnson pointed out in a comparison of Berkeley’s and UCLA’s work program that 45 athletes at UCLA had received a sum that, when divided amongst them, would amount to \$346.94 each for caring for UCLA’s athletic fields and other areas on campus over the nine-month school year, work that he estimated as “the equivalent of eight men working full time” over the same period, based on work hours.¹⁰³ This, Johnson explained, was actually generous compared to other schools in the conference, drawing the concerns of President Sproul and the Conference at large.¹⁰⁴ To reinforce the ideology of amateurism, universities and conferences capped student-athlete’s ability to earn money in comparison with their fellow students, a feat made possible because of negative spaces’ ability to facilitate economic exploitation.

Discipline

Universities attempted to regulate student-athlete’s behaviors in ways resembling how corporations handled labor during industrial capitalism; coaches played an integral role in this effort. Perhaps most notably, when university administrations reallocated control over athletics to faculty groups and athletic departments, coaches did not lose their authority over athletes. Rather,

⁹⁹ ASUCLA Employment of Athletes, Letter from Paul Dodd to President Sproul, December 3 1952, CU-5, Series 4, Box 6, University of California-Berkeley Bancroft Library Special Collections, University of California, Berkeley.

¹⁰⁰ *Ibid.*, 2.

¹⁰¹ *Ibid.*, 2.

¹⁰² ASUCLA Employment of Athletes, Letter from Robert Johnson to President Sproul, July 14, 1952, CU-5, Series 4, Box 6, Bancroft Library Special Collections, University of California, Berkeley

¹⁰³ *Ibid.*, 1

¹⁰⁴ *Ibid.*, 2.

coaches kept their foreman-esque authority over student-athlete's earnings and disciplinary policies.

Greg Engelhard, the director of athletics for the University of California Berkeley during the 1950s, structured Berkeley's work program much like a corporate employer. He appointed an overall manager from the school's business department, Henry Davis, and employed "Student Work Supervisors" to help Davis manage maintenance of the athletic department and of the field.¹⁰⁵ Much like industrial workers, student athletes had to check in with the Student Work Supervisor and check out once they were finished working, with punch cards. They retained authority to assign student-athletes to particular positions and, as part of their scholarship deals, to determine how much a student-athlete could earn. Coaches, "made their commitment lists, involving the amount of money a specific student would be allowed to earn in a given month. This list was then transferred to Mr. Davis and the student was assigned a certain number of hours of work in a specific area under one of the student work supervisors."¹⁰⁶ This was increasingly the case throughout the 1950s: coaches controlled how and when student-athletes worked, and further increased inequities between coaches and student-athletes.

Despite opposition from within universities, conferences, and some members of the general public, the authority that coaches possessed over athletes grew. Some athletic directors, university presidents, and chancellors often argued that coaches needed to be reined in to prevent student athletes from making more than they should. Yet, these figures also thought that coaches should have immense amounts of authority over athletes, a result of the formation of athletic departments throughout the twentieth century. These patterns are clearly visible in the formation of both Berkeley's and UCLA's athletic departments. In a joint statement to President Clark Kerr, Chancellor Glenn Seaborg and Vice-Chancellor W.G Young argued that the responsibilities of an athletic department rests not with the president of the UC system and student government, but with the athletic department at each campus, and this structure would not only make the athletic department more profitable to They gave four reasons for their recommendation:

1. Management of the athletic department was inconsistent with the responsibilities of the Chancellor, President and Regents and thus is unnecessarily cumbersome
2. The roles of students, faculty and alumni in formulating, developing and controlling policies within this new athletic department would be enhanced
3. The educational values inherent in intercollegiate athletics are of worth and can be better nurtured through the revision of organization proposed
4. Removing intercollegiate athletics from the operation of ASUC will not jeopardize its financial structure when proportionate reductions are made in administrative overhead.¹⁰⁷

The statement argued that, though different interests from student groups, faculty and alumni would be considered by creating a Chancellor's Intercollegiate Athletic Advisor Board which

¹⁰⁵ Employment of athletes, *Letter to Dr. Glenn Seaborg* from Greg Engelhard, 1955, Cu-149, Box 33, Bancroft Library Special Collections, University of California, Berkeley.

¹⁰⁶ Employment of Athletes, Letter to Dr. Glenn Seaborg from Greg Engelhard, 1957, Cu-149 Box 33, Bancroft Library Special Collections, University of California, Berkeley.

¹⁰⁷ Memorandum to President Kerr; Glenn Seaborg and W.G Young's Joint Statement on Organization and Management of Intercollegiate Athletics at Berkeley and Los Angeles, Feb. 2, 1960, Cu-149, Box 32, Bancroft Library Special Collections, University of California, Berkeley.

featured members from the Athletic Department, students, and alumni, the two chancellors argued that the athletic department would ultimately control the finances and employment of student athletes, the finances of the athletic department and how student athletes were disciplined and managed.¹⁰⁸ This allowed for the continuance of power that coaches possessed in the early twentieth century to remain into the mid twentieth century essentially unchanged

Putting the Work in Play: Workman's Compensation Debates, 1950-1960

By 1950, the culture of nineteenth century perspectives about work were cemented in both popular imagination and within the actual habits of college athletics. Historians generally agree that labor's declining power vis-à-vis employers began after World War II starting with the restrictions of labor unions implemented in the Taft-Hartley Act in 1947.¹⁰⁹ Management and business owners undermined New Deal policies throughout the 1950s, which led to the decline of unions' power.

In this environment, student athletes had few allies in resisting institutions' dominance. Though some theorists and university presidents decried the growing commercialization of college sports, few, if any, criticized the notion that sports should prepare players for the workplace. Athletes also were ultimately defeated in one of the few avenues that had empowered workers in the 1950s: worker's compensation lawsuits. These claims shook the college athletic landscape. However, they did not revolutionize the system, as some student-athletes had hoped. Rather, workman's compensation claims provided the NCAA and university athletics departments a framework that ossified the authority of universities and coaches while simultaneously delegitimizing student-athletes as workers.

This outcome, as predictable as it seemed, was not inevitable. Workman's compensation proved to be an exception to an anti-labor trend in the 1950s; rather than grow weaker, workman's compensation under the law grew stronger. The majority of U.S. workers had workman's compensation coverage by the end of the 1930s and by 1950, more than 60 percent of the workforce were covered by workman compensation laws. Additionally, roughly half of U.S. states required employers to make workman compensation payments if a worker qualified by 1950.¹¹⁰ The scope of injuries such policies covered and the awarded amounts also increased dramatically during the 1950s. For example, Ohio revamped their workmen's compensation system in 1955, which "provided for an advisory council on workmen's compensation, made substantial increases in benefits, and drastically revised the system for processing and adjudicating claims both before the bureau and commission as well as upon appeal to the courts."¹¹¹ As Joseph Sullivan, a legal scholar, noted in 1951, states were resisting taking the burden for workman compensation claims, shifting them to employers, "All of the other forty-three workmen's compensation laws, including

¹⁰⁸ Ibid.

¹⁰⁹ Melvyn Dubofsky and Foster Dulles, "Labor in Decline," in *Labor in America: A History* (Wheeling, Illinois: Harland Davidson Inc, 2010). The Taft-Hartley Act was a federal law that restricted the activities and power of labor unions.

¹¹⁰ Albion Guilford Taylor, "Workmen's Compensation and Health Insurance," in *Labor Problems and Labor Law* (New York: Prentice Hall, 1950), 546. Compulsory laws are binding upon every employee and employer within its scope; this covered far more workers than elective laws, which forced employees to choose between common law defenses and state workmen compensation principles.

¹¹¹ Joseph D. Sullivan, "Workmen's Compensation Insurance - Growth and Expansion," *Insurance Law Journal*, no. 5 (May 1951): 348.

the District of Columbia and the Longshoremen's and Harbor Worker's Acts, place the obligation upon employers of providing for the payment of benefits and furnishing services to employees injured by industrial accidents; and thereafter provide for insurance as the means of satisfying that obligation."¹¹² Sullivan continues by noting that Workman Compensation, despite challenges from private interests, was an invaluable measure for employees. In 1956, James F. De Leone and R. Brooke Alloway noted that compensation had been increased to "a maximum of forty dollars and twenty-five cents per week and a minimum of fourteen dollars per week" in Ohio.¹¹³

Many state courts, in defining the limits of workman compensation, employed the phrase "Arising Out of and in the Course of Employment" and state and federal courts increasingly stretched the phrase to include injuries suffered from recreational activities during employment in the 1950s.¹¹⁴ In a 1955 legal journal article about worker's compensation, legal scholars Joseph Lampe and Sanford V. Lavine noted in New York that entertainers working as independent contractor were being treated by courts as meriting protection from workmen compensation, "In the entertainment field too, it has been generally held that where the entertainer is under the supervision of the employer or a representative of the employer, he will be deemed an employee even though the contract states that he is an independent contractor."¹¹⁵

Applying workman's compensation law to university athletic programs could have proved not just injurious, but fatal. States had successfully required individual companies to make workman compensation payments and many states employed the executive branch to enforce the decision. For example, the state of Washington declared that enforcing workmen's compensation claims required the power of the police in 1951:

"The welfare of the state depends upon its industries and, even more, upon the welfare of its wage worker. The state of Washington, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy and sure and certain relief for workmen, injured in extra-hazardous work, and their families and dependents, is hereby provided, regardless of questions of fault and to the exclusion of every other remedy, proceeding or compensation, except as otherwise provided in this title, and to that end all civil actions and civil causes of action for such personal injuries and all jurisdiction of the courts of the state over such causes are hereby abolished, except as in this title provided."¹¹⁶

The state also took pains to define an employer: "'Employer' means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any extra- hazardous work, by way of trade or business, or who contracts with one or

¹¹² Ibid., 349.

¹¹³ James F. De Leone and R. Brooke Alloway, "The New Ohio Workmen's Compensation Act: Change in Benefits," *Ohio State Law Journal*, 16, no. 4 (Autumn 1956): 524.

¹¹⁴ Noel S. Symons, "The Future of Workmen's Compensation," *American Bar Association*. Section of Insurance, Negligence and Compensation Law. Proceedings (1959).

¹¹⁵ Joseph Lampe and Sanford V. Lavine, "Recent Trends in Workmen's Compensation," *Syracuse Law Review* 6, no. 2 (Spring 1955): 348.

¹¹⁶ The State of Washington, "Workman's Compensation: General Provisions," *Revised Code of Washington*. + *Supplement*, 1951, 4104.

more workmen, the essence of which is the personal labor of such workman or workmen.”¹¹⁷ University athletic departments, particularly football, seemed to fall under this broad definition. As a result, the rising amounts of workmen’s compensation claims could have destroyed college sports pragmatically and ideologically. Neither universities nor the NCAA possessed nearly enough revenue to pay for potential claims, and none wanted the state to challenge or remove their authority over student-athletes.

Student-athletes filed workman’s compensation claims twice in the 1950s. Both cases were filed in Colorado. In the *University of Denver v Nemeth*, Ernest Nemeth, a student enrolled in the College of Business Administration at the University of Denver and a football player, had suffered an injury to his back while playing football. Importantly, Nemeth argued that he was injured as a result of his employment by the University of Denver and his status as a student athlete made him an employee of the university. Nemeth provided copious evidence to prove his employment status. In addition to his unpaid work as a football player, Nemeth received a \$50 per month stipend to maintain the school’s tennis court (from which the school deducted roughly \$10 dollars per month for cafeteria fees), and he maintained the furnace and cleaned the sidewalks of various dormitories in exchange for on campus-housing.¹¹⁸ The University of Denver countered, arguing that Nemeth’s injury did not occur as a result of either of his paid jobs on campus, and therefore, should not pay workman’s compensation.¹¹⁹ Further, it argued that paying athletes workman’s compensation would force them to pay their other 800 student-employees workman’s compensation as well, which would have circumvented public policy.

The Colorado Supreme Court ruled in Nemeth’s favor, and as a result, Denver had to pay Nemeth an amount determined by the Industrial Accident Commission. The court thus pierced the negative space that the University of Denver’s athletic department operated; the athletic department did not simply exist in its own space, separate from the law. The court noted that “higher education in this day is a business and a big one.... A student employed by the university to discharge certain duties, not a part of his education program, is no different than the employee who is taking no course of instruction so far as the Workmen's Compensation Act is concerned.”¹²⁰ To the court, student athletes were employees, replete with rights that laborers had. The Court also struck down the university’s claim that workman’s compensation claims would disrupt public policy, arguing that the university did not provide any evidence to support its claim, “No authorities are cited in support of this contention, and we are at a loss to see where anything in this record requiring the application of the Workmen's Compensation law to Nemeth's situation in anyway contravenes public policy.”¹²¹

The ruling temporarily undermined the power relations between universities, and by extension coaches, and athletes. The court powerfully argued, “It cannot logically be contended that there is any purpose of the Workmen’s Compensation Act other than to protect all workmen, save those specifically excluded.”¹²² Thus, the court systematically dismantled negative space; to the court, athletic departments could not carve out space to violate student athletes’ protections as

¹¹⁷ Ibid., 4109.

¹¹⁸ *University of Denver v. Nemeth*, 127 Colo. 385 (Supreme Court of Colorado, 1953), P.3.

¹¹⁹ Ibid., 3.

¹²⁰ Ibid., 5.

¹²¹ Ibid., 10.

¹²² Ibid., 7.

workers. It opined that Nemeth deserved workman's compensation because his jobs were contingent upon his participation in the athletic program. Thus, the Court cast athletics and the athletic department less as an extracurricular activity than as an extension of the University of Denver's business model.

However, just four years later in 1957, the Colorado Supreme Court reversed *Nemeth* in *State Compensation Insurance Fund v. Industrial Accident Commission*, noting that "It is significant that the college did not receive a direct benefit from the activities [of athletes], since the college was not in the football business and received no benefit from this field of recreation."¹²³ The court here reversed itself upon the logics of *Nemeth* as well; in *Nemeth*, the Court argued that the university, implicitly, benefitted from the labor of athletes, but in *State Compensation*, they refuted a similar fact pattern. The Supreme Court argued that Billie Dwade Dennison, who died from a head injury from playing football for the university team, did not have a contractual relationship with the university and therefore the Industrial Accident Commission could not provide his widow with workman compensation benefits.

The Court came to this conclusion even while noting that Dennison and the head coach of the football team had an economic relationship: "At the time of his enrollment as a student he had a part-time job at a filling station and the director of student affairs and the football coach asked him, that if he could get a job that would make him as much as he was making at the filling station, at different hours, would he play football? Being agreeable to such an arrangement, deceased was then employed by the college to do certain work, which he did, and for which he was paid the regular student rate."¹²⁴ The court argued that the claimant, unlike in *Nemeth*, did not depend entirely on playing football; the coach did not hold universal power over his economic future at the university, even though the coach unilaterally hired him, determined his wage and hours and allowed him onto the football team. Nonetheless, it negated any hope that *Nemeth* might have created for student athletes, noting in its decision, "We cannot believe that the legislature, in creating the compensation fund, intended that it be in the nature of a pension fund for all student athletes attending our state educational institutions."¹²⁵

These two cases destroyed the status quo universities has crafted starting in the early twentieth century while simultaneously demonstrating their authority over athletes by reclassifying athletes who happened to be students into "student-athletes." *Nemeth* nearly revolutionized college athletics by removing student-athletes' employment status from university control and enshrining it within labor law. However, *Nemeth* sparked the transformation of students into "student athletes." The standard contract that student athletes signed when attending universities, highlighted by the principles of amateurism, was directly inspired by the legal peril *Nemeth* enacted. Clearly shaken by the *Nemeth* decision, President Sproul ordered Robert Johnson to investigate the athletic department at Berkeley and determine if Berkeley student athletes could follow in *Nemeth's* footsteps.¹²⁶ Johnson determined that the athletic department was safe and that, "no one is ever discharged from a ASUC job because he has failed to make the team, is injured, or

¹²³ *State Compensation Ins. Fund v. Industrial Com'n*, 135 Colo. 570 (Supreme Court of Colorado, 1957).

¹²⁴ *Ibid.*, 2.

¹²⁵ *Ibid.*, 4.

¹²⁶ ASUCLA Employment of Athletes, Robert Johnson letter to President Sproul, July 14, 1952, CU-5, Series 4, Box 6, University of California-Berkeley Bancroft Library Special Collections, University of California-Berkeley.

no longer turns out for practice.”¹²⁷ Once enacted, the “principles of amateurism” clause erased these legal fears and reinstated the negative space that athletic departments were accustomed to. *Industrial Accident Commission* negated these gains by delegitimizing the economic connections that athletic departments and student athletes had. Student athletes thus could not be employees, even if they were actively hired by the coach. *Industrial Accident Commission* assisted universities and the NCAA to re-categorize students who were athletes as “student-athletes.” This classification, which continued to shape discourse about college athletes in the ensuing decades, simultaneously defined student-athletes as students with the responsibilities of labor but crucially, still a subset of students. This eliminated student athletes’ ability to make claims as workers or students, while entrenching coaches’ and athletic department’s enormous amounts of latitude to discipline and control them.

Conclusion: The Costs of Both and the Benefits of Neither

Though the Colorado Supreme Court did not comment on universities’ and coaches’ power over athletes, their decisions in both *Nemeth* and *State Accident Commission* reveal its immense amount of power that the University, and by extension coaches, possessed over athletes in the mid-20th century. In noting that the athletic department distributed jobs and meals to athletes, the court officially legitimized that power and removed the best chance for student-athletes to obtain fairer working and playing conditions. These court cases would have an outsized impact on how universities and coaches handled student-athlete protests in the 1960s. Student athletes protestors faced an administrative juggernaut systematically designed to manage them as labor without the protection of organized labor, and students without the traditional protections students enjoyed. Courts cemented student athletes as a unique type of hybridized labor: labor without the protections of labor, and students without the protections of students. This allowed them to manage student-athletes’ protests as labor protests but not to bow to the restrictions that unions might have imposed.

Under the logic that had prevailed since the nineteenth century, in which sport was seen as producing, enhancing and fostering work ethic in players, student athletes were *laborers in training*. As such, they lacked the protection of actual laborers. Both corporations and the federal government increasingly recognized that organized sport, football and basketball being the most prominent, would foster work ethic to new generations of industrial employees. Progressive Era theorists and university administrators argued that educational institutions, primarily universities, needed to teach young men work ethic, and traditional obedience to authority. Early pioneers of coaching like Walter Camp and John Heisman took advantage, persuasively arguing that in order to teach prospective athletes these essential skills, they would need near absolute authority from both on field and off field matters. Though implementing these reforms would prove challenging, particularly in football and basketball, by 1960, coaches and athletic departments largely obtained these goals.

In 1968, Berkeley basketball coach Pete Newell told players that “it would be decided on the football field who receives the meals and the jobs.”¹²⁸ In other words, a player’s on-field

¹²⁷ Ibid.

¹²⁸ Pete Newell, “UC Berkeley athletics and a life in basketball: oral history transcript: coaching collegiate and Olympic champions, managing teaching, and consulting in the NBA, 1935-1995 / Peter F. Newell: Athletics and Racial Conflict, 1968,” *Regional Oral History Office, The Bancroft Library, University of California*, 1994, P.235

performance would determine his wage off the field and the quality of the food he ate. Far from Colorado Supreme Court's claim in *State Accident Commission* that jobs for student-athletes were not decided, at least in part, because of playing time, Newell explained that in order for a student athlete to have access to paying jobs, he had to play. It was clear that Newell could unilaterally dismiss a student athlete from a job. Coaches would leverage such power to discipline student athletes, and thereby put down their protests when they erupted in the late 1960s.

Chapter Two: All Darkness, No Dawn: Autocracy, Constitutionality and Student-Athlete Protest at Wyoming University 1969-1971

Introduction

In October 1969, during the height of protest at the University of Wyoming by Joe Williams and 13 other Black football players, Barbara Roussau wrote a letter to Irene Schubert, an employee of the University of Wyoming, complaining about a protest that was ongoing at the University. Ms. Roussau's letter was extraordinary, even in the context of constant complaints directed at the University surrounding their protesting athletes: "Those who try to use public coercion (in the name of "civil rights") to impose their will on the religious convictions of others, are themselves violators of the civil rights of a church group. But, to use the sports arena to try to demean and denigrate others for privately held beliefs is as despicable and unAmerican as any Hitlerian tactic ever devised."¹²⁹ With her explosive rhetoric, one might believe that Mrs. Roussau was writing about a heinous atrocity that occurred within the University of Wyoming, not student athletes protesting against racism within an institution. Mrs. Rousseau's passionate response against protesting student athletes was not totally unusual during the 1960s and 1970s: she acknowledged, implicitly, that student-athletes had no right to protest because the space that organized sport occupied should be separate from the outside world, a theme that would be ruthlessly applied to student-athletes.

In advance of a scheduled football game against Brigham Young University (BYU), a group of athletes, later nicknamed the Black 14 by journalists, objected to BYU's racist religious policies.¹³⁰ The Latter Day Saints' policies prevented African Americans from becoming priests or entering into their socio-religious life because their religious doctrine viewed Black Americans as spiritually inferior.¹³¹ Without being allowed into the priesthood, Black Americans could not marry in the temple, hold important leadership positions in the church, or enter the highest level of heaven. These Wyoming student-athletes were part of a broader movement of college athletes in the Western United States decided to bring attention to this injustice by protesting when their teams played Brigham Young University. Black Student Unions helped plan these protests, and articulated the reasons why the student athletes were protesting: the practices of the Mormon Church, and by extension Brigham Young University (BYU), were racist. Most prominently, these students wore black armbands to bring attention to these practices, and the Black Student Unions also made demands for every school to boycott games played against BYU.¹³²

¹²⁹ Campus Reaction, no.14, American Heritage Center, University of Wyoming University Archives Special Collections, American Heritage Center, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming.

¹³⁰ The Black 14 consisted of Tony McGee, Joe Williams, Mel Hamilton, Guillermo Hysaw, Jay Berry, Tony Gibson, Ted Williams, Ron Hill, John Griffin, Ivie Moore, James Isaac, Don Meadows, Earl Lee, and Don Meadows.

¹³¹ Two traditional stories explained why blacks were not allowed to attain priesthood in the Church of the Latter-day Saints. One story claimed that in a battle between God and Lucifer, some spirits remained neutral. God cursed the neutral spirits, and when these spirits are born on earth, they were given black skin as a marker of their curse. The second story claimed that those with black skin were cursed because of their lineage from Cain and Ham. Both stories hold that blacks are inferior and cannot reach full salvation regardless of their actions on earth. Mormon leaders perpetuated these stories as late as the 1950s: Bruce McConkie, a high ranking LDS leader, wrote in 1958 that "Cain, Ham and the whole Negro race have been cursed with black skin, the mark of Cain, so they can be identified as a caste apart." Craig Collison, "The BSU takes on BYU and the UW Athletics Program," *Seattle Civil Rights & Labor History Project*.

¹³² Williams v. Eaton, 310 F.Supp. 1342 (1970) United States District Court, D. Wyoming, Motion to Dismiss.

This chapter explores the very different way that the Black 14 were punished. They were not treated like other protesting students; unlike their protesting brethren, the protesting Black athletes' were immediately removed from the university by the Head Football Coach Lloyd Eaton. Eaton revoked their student-athletes wages--their scholarships--without any oversight from the university administration. The athletes appealed to the university administration, yet, after meeting with the President of the University of Wyoming, the Board of Directors, and the Governor, the administration ruled that Eaton stripping the protesting athlete's scholarships followed university protocol. After their unilateral dismissal, the Black athletes, led by Joe Williams filed suit in Wyoming District Court, and later on to the Wyoming Court of Appeals. Their appeals would fall on deaf ears however: none of the Black 14 would ever play for the University of Wyoming again.

The Black 14 of Wyoming protest occurred in a dynamic social environment uniquely situated to facilitate protests by minority groups. By the 1950s, the stereotype of the "good negro" in athletics was starting to fray, but still existed. By the 1960s, the behavior of athletes began to change because of the twin influences of the Civil Rights Movement, and the Black Power movement. The Civil Rights Movement provided solidarity vital for any type of protest, and Black athletes did not hesitate to take advantage with their own protests. Yet, the Black Power movement in the late 1960s truly shattered the "good negro" stereotype in mainstream athletics. Black Power advocates argued that the Civil Rights Movement did not provide rights quickly enough, and critically, was too passive in handling institutional racism.¹³³ Direct confrontation with individuals and/or power structures, would be the only way to successfully overthrow the shackles of institutional racism.

The Black Power movement played an immensely influential role in sparking protests by professional and collegiate athletes in the 1960s. Both Muhammed Ali and the 1968 Olympic protest by Tommie Smith and John Carlos were directly inspired by the Black Power movement, which in turn inspired many college athletes to actively protest against racial (and other forms) of injustice.¹³⁴ Famed Sociologist Harry Edwards recorded 12 major student-athlete protests throughout the country in the 1960s alone.¹³⁵ Black athletes thus empowered themselves to attack instances of personal and institutional racial injustice.

In line with Black Student Unions throughout the Western part of the United States, the Black Student Union at the University of Wyoming also publicly called on the university to protest against BYU. In the context of athletics, The BSU asked for four specific actions in concert with other universities in the Western Athletic Conference:

1. "University officials at Wyoming as well as other schools in the Western Athletic Conference (WAC) not use student monies and university facilities to host and thereby in part sanction those inhuman racist policies of the Church of the Latter Day Saints.
2. Athletic directors in the WAC refuse to schedule and play games with BYU so long as the LDS Church continues such policies as outlined above.
3. Black Athletes in the WAC in some way any protest with BYU so long as the LDS Church continue such policies

¹³³ Manning Marable, "Black Power, 1965-70," in *Race, Reform and Rebellion: The Second Reconstruction and Beyond in Black America, 1945-2006*, (Jackson: University of Mississippi Press, 2007), 89.

¹³⁴ David Wiggins, "Civil Rights and the Quest for Equality: The Year of Awakening," in *Glory Bound: Black Athletes in a White America* (New York: Syracuse University Press, 1997), 120.

¹³⁵ Harry Edwards, "Appendix B: The Revolt on Campus," in *The Revolt of the Black Athlete* (Chicago: University of Illinois Press, 1969), 113.

4. All white people of good will-athletes included-protest with their Black fellows a policy that is clearly inhumane and racist. The symbol of protest will be the black arm band worn throughout any contest involving BYU.”¹³⁶

Black football players at Wyoming had a particularly salient reason to protest. One of their own, Ted Williams, wanted to join the Mormon church. As a result, they wanted to follow the call of their fellow Black peers and protest their next game, against BYU. However, their Head Coach, Lloyd Eaton did not share their sentiments. Eaton’s views of protest were well known: his two most famous rules prohibited student-athletes under his charge from protesting or attending a protest for any reason and approaching him as a group. He repeatedly reminded the entire team, once on October 14th, and again two days later on October 16th, that they were, under no circumstances, allowed to join student protestors.¹³⁷ In their proposed statement of facts, though Eaton informed Joe Williams, a captain on the team, that wearing black arm bands at practice and at the game would be prohibited, Eaton did not individually convey this message to the other Black athletes on the team, nor did he forbid players from wearing black arm bands outside of practice or the game.¹³⁸

Though Williams conveyed the message from Eaton to the rest of the Black athletes, the athletes persisted, and attempted to ask Eaton’s permission to protest by wearing a black armband to a meeting with Eaton the morning of October 17th. On the 17th, Eaton, in his testimony, stated that he listened to the protesting athletes. Williams provided a very different account of how Eaton reacted to the athlete’s overtures: "He [Eaton] came in, sneered at us and yelled that we were off the squad. He said our very presence defied him. He said he has had some good Negro boys. Just like that."¹³⁹ Tony McGee, a defensive end, elaborated on William’s recollection, arguing that Eaton "said we could go to Grambling State or Morgan State ... We could go back to colored relief. If anyone said anything, he told us to shut up."¹⁴⁰ In his attempt to suppress the protest, Eaton thus demonstrated the power of negative space. He, supported at all levels of administration, and later by the Wyoming District Court and Court of Appeals, unilaterally removed both constitutional and university protections from protesting members of the football team.

After learning of the players’ dismissal, the Black Student Union, with the support of Faculty and Student Senates, requested an audience with the President and the Board of Directors to discuss redress if the athletes were improperly dismissed. In addition to an open forum, Carlson called a meeting with the Board of Directors and the 14 dismissed players to discuss the circumstances behind their dismissal. This meeting would serve to reaffirm the coach’s power over the protesting student athletes. The Board of Directors affirmed Eaton’s decision to rescind the 14 player’s scholarships regardless of Eaton’s potential constitutional violations of the players First Amendment rights.

¹³⁶ Remarks by the President of the University of Wyoming at a Special Meeting of the Faculty Senate Concerning the Black Student Incident, October 23, 1968, Box 2, Folder 8, Accession Number 10405, University of Wyoming University Archives Special Collections, American Heritage Center, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming.

¹³⁷ *Ibid.*, 2.

¹³⁸ “Athlete’s Proposed Statement of Facts,” 1968, Box 1, Folder 7, Accession Number 10405, University of Wyoming University Archives Special Collections, American Heritage Center, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming.

¹³⁹ Joe Williams, quoted in Pat Putnam, "No Defeats, Loads of Trouble," *Sports Illustrated*, November 3, 1969.

¹⁴⁰ Tony McGee, quoted in "No Defeats, Loads of Trouble," *Sports Illustrated*, November 3, 1969.

Though athletic departments mirrored and functioned like corporations throughout the twentieth century, Wyoming's department followed a particularly autocratic labor model, a model practiced during the halcyon days of industrial capitalism of the late 19th and early twentieth centuries. Their labor model, unlike their counterparts at Berkeley and Oregon State that followed more standard corporate models, drifted into how company towns disciplined laborers in the late 19th and early twentieth centuries. This was not unsurprising in the context of student-athletics: John Heisman argued that coaches should be empowered to act like a Czar.¹⁴¹ Though Wyoming did not take this statement literally, they adhered most closely to it out of the university case studies in this dissertation.

The protests by the Black athletes at Wyoming radically redefined the college athletic landscape. The athletes did not simply bow to the university's ruling; they sued in an attempt to reclaim their rightful place on campus. Yet, their hopes would be dashed at both the district and appellate level. Both the district court, and the appellate court in Wyoming sided with the university, arguing that supporting the Black athletes meant that the university was supporting an attack against an organized religion, which violated the University's First Amendment responsibilities. This was in part because of how courts sided with management over labor throughout the twentieth century. Law was critical to how universities, coaches and athletic departments were able to conceptualize, discipline, and manage student-athletes like labor throughout the twentieth century. Though labor law attempted to curb employers' authority within the workplace throughout the mid twentieth century, highlighted by the Wagner Act in 1935, these changes did not apply to student-athletes, with legal theorists preferring to allow universities to self-regulate their athletic programs. This lack of oversight had monumental impacts on student-athlete protest in the 1960s. Though athletic departments did not necessarily need court rulings to exercise power over athletes, when protesting athletes attempted to obtain legal solutions, district and appellate courts further solidified athletic departments' power over student athletes, and in the process, provided departments with more power than many employers had over their employees in the 1960s.

Autocracy via Separation: The Separation of the Athletic Department From University Channels

Though Eaton's unilateral dismissal of student-athletes might seem out of step with the democratic ethos coursing throughout universities throughout the 20th century as a result of student protest, it fit well within the context of university athletic programs during the 20th century because university and athletic department had consistently managed student-athletes like laborers since the 1930s. This theme reverberated throughout the athletic department thirty years later, building upon a foundation which the administration and the athletic department stood on to deny student-athletes their constitutional right to assemble.

Eaton's extreme authority mirrored employers' attempts to manage labor in two ways: Eaton could recruit and dismiss student-athletes largely without oversight from the university, and the rules that student-athletes violated, that they could not approach him in groups or protest in any way, were continuities from rules that employers in the late nineteenth and early twentieth centuries used in an attempt to prevent unionization. Eaton's power over student-athletes often approached the levels of foremen in the late nineteenth century.

¹⁴¹ John W. Heisman, "Suggestions to the Coach," in *Principles of Football* (St. Louis: Sports Publishing Bureau, 1922), 359.

As Sanford Jacoby argued, foremen obtained new powers over hiring and firing practices by the late 19th century.¹⁴² Foreman's authority over hiring and firing practices were so thorough during this period that many employees did not see themselves as working for the corporation, but the foreman themselves.¹⁴³ Foremen also possessed considerable powers in determining wages, though less power in this department than in hiring. It was common practice for a foreman "to beat the applicant down from the wage he states he wishes to the lowest which the interviewer believes he can be induced to accept."¹⁴⁴ Additionally, foremen used the drive system, which operated by pushing workers for greater efficiency via fear and intimidation: "the policy of obtaining efficiency not by rewarding merit, not by seeking to interest men in their work . . . but by putting pressure on them to turn out a large output. The dominating note of the drive policy is to inspire the worker with awe and fear of the management, and having developed fear among them, to take advantage of it."¹⁴⁵

Though Eaton did not possess the same profit motives as many industrialists and managers, he controlled and managed student-athletes in similar ways. Eaton's power mapped quite closely with labor management practices in the late 19th century. Both his rules and his implementation of these rules fit within these broader practices; Eaton's rules that forbade approaching him as a group, and attending or participating in protests were implemented by many corporations in the late 19th century in an attempt to prevent unionization.¹⁴⁶ For example, at U.S Steel in the early twentieth century, Andrew Carnegie often blacklisted employees that discussed unionization, and at company towns like Pullman and Hershey, employees were forbidden to read, or speak of unionization.¹⁴⁷ These corporations also forbade employees from approaching management, or foremen in groups as well.

At Wyoming, student-athletes had been managed like laborers since at least the mid 1940s. In his annual athletic department report in 1946, Glenn recommended a considerable amount of departmental reorganization, and this reorganization established a new bureaucratic system to manage student-athletes' labor. Jacoby identified specific members of the athletic department required to manage student-athletes' labor and conduct: for example, "Leonard Coffman, Backfield Coach, has charge of student {athlete} labor."¹⁴⁸ And this "labor" was not just on the field: during the year, students were expected to work as guards, ticket takers and sellers, ushers, preparing of fields, janitors, ect."¹⁴⁹ The organization's bureaucratic structure facilitated the management of student-athletes' labor off the field; one of Glenn's close associates was George Pahl, the head of athletic department grounds and maintenance..

Student-athletes' labor for the university was necessary by the 1950s. In a report to University President, C.B Jensen, the supervisor of the Building and Grounds crew wrote that the

¹⁴² Sanford M. Jacoby, "Factory Work before 1914," in *Employing Bureaucracy: Managers, Unions, and the Transformation of Work in the 20th Century*, (Mahwah: Lawrence Erlbaum, 2004).

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Neville Kirk, "Transformation of Labour," *Labor and Society in Britain and the USA, Volume Two: Challenge and Accommodation, 1850-1939* (Brookfield: Ashgate Publishing Company, 1994).

¹⁴⁷ Ibid.

¹⁴⁸ I bracket the word athlete because Jacoby was talking about student-athletes before the term formally existed. The students that Jacoby refers to were in fact student-athletes.

¹⁴⁹ Annual Report Athletic Department's Annual report, by Glenn Jacoby, 510000 Box 70, July 1 1946-June 30, 1947, University of Wyoming University Special Collections, American Heritage Center, University of Wyoming.

maintenance and repair work throughout the campus was quite extensive in 1950 and much of the work was done “with what is called ‘free labor.’” In the context of Jacoby’s comments in 1947, Jensen strongly suggests that at least some of these laborers were student-athletes. In particular, student-athlete janitors made roughly half (53 percent) of salaried janitors at the University, jobs that Jensen explicitly argued that student-athletes should do.¹⁵⁰

Football and Basketball also enriched the university more directly. By the 1960s, the university explicitly noted that they profited from the labor/capital nexus of student-athletes. Football and basketball, did not just support simply the athletic department, their revenue was also reallocated throughout the university. As H.T Person, an accountant for the university, noted in a report to the Wyoming Legislature in 1966, football generated nearly 243,000 dollars for the university by itself.¹⁵¹ Basketball generated significantly less revenue than football but it also turned a profit and assisted in keeping the department afloat. Every other program cost the athletic department nearly 180,000 dollars combined; the on and off field labor of Wyoming football players was integral to the support of the athletic department.¹⁵² Additionally, the athletic department also, according to Person, hardly contributed to the University’s total expenditures; in a nearly thirty year survey from 1946-1969, the average percent of general expenditures from the university budget was roughly 2.5 percent, and was estimated to decrease to less than 2 percent by 1969.¹⁵³

Student-athletes were also conceptualized as labor by the Western Athletic Conference (WAC), which crafted rules that stripped the autonomy of student-athletes. In June of 1967, the conference approved a measure that forced a student-athlete that participated in any “post high school competition at a trade, technical or prep school” to “forfeit his freshmen year of competition when he enters a Conference institution.”¹⁵⁴ Even more draconian, the conference invalidated transferable credit work that student-athletes completed at their prior institution, depending on where the student-athlete transferred from and when they transferred: “However, if he has taken transferable credit work from the post high school institution and more than one year of competition, it may result in the loss of his sophomore, junior and senior year depending on the amount of transferable credit. This decision shall be made by the Commissioner’s Office.”¹⁵⁵ This was a clear application of transfer rules established in the twentieth century; regular students were not penalized because of they transfer, and certainly not depending on which university they transferred from.

The University of Wyoming thus was allowed to treat student-athletes as assets and liabilities to be managed. In a discussion about freshman student-athletes, both faculty representatives and Directors of athletics argued that new incoming freshmen were akin to investments to the athletic department, “The capable freshman is not a forgotten man of course. He has a grant-in-aid and the benefits of a costly freshman athletic program (facilities, equipment, coaching, ect.). The tab is picked up by the athletic department, which already may be struggling

¹⁵⁰ Pay Scale, Annual Athletic Report, written in by C.B Jensen, 1950, Collection Number 510000 Box 70, University of Wyoming Special Collections, American Heritage Center, University of Wyoming.

¹⁵¹ Intercollegiate athletics, 1966-67, Collection Number 520000, Box 286, University of Wyoming University Special Collections, American Heritage Center, University of Wyoming.

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ Western Athletic Conference Minutes, Collection Number 520000 Box 287, folder 23, June 7, 1967, University of Wyoming Special Collections, American Heritage Center, University of Wyoming.

¹⁵⁵ Ibid.

to make financial ends meet, but which regards the cost of the freshmen program as a ‘necessary investment in the future.’”¹⁵⁶ This entire discussion revolving around the productivity of freshmen athletes clearly demonstrate that officials thought of freshmen athletes as investments for both the conference and for individual universities as assets.

Though universities wanted to maximize their assets, they certainly did not want student-athletes to capitalize on their potential sources of revenue. Universities throughout the West, including Wyoming enacted policies designed to regulate student-athletes’ finances. They framed regulation as a way to make it possible for student-athletes to spend time on their studies: “ In order to make it possible for student-athletes to have adequate time to pursue their studies, participate in athletics, and enjoy a cross-section of student activities, member institutions are permitted to give scholarships, grants-in-aid, and/or part time employment. . . Aid to athletes shall be limited, both in amount and in time, to the student’s actual educational expenses.”¹⁵⁷ However, universities, joined by Wyoming, also limited the amount that student-athletes could make at their respective universities, stipulating that if the student-athlete accepted an academic scholarship that exceeded the total aid necessary for educational expenses, they could not accept a grant-in-aid scholarship.¹⁵⁸

Even if an athlete wanted to take an additional job on campus, members of the Western Athletic Conference, Wyoming included, had specific regulations stipulating which types of work student-athletes could perform, and how much they could be paid: the student-athlete had to “perform useful work, and paid the prevailing rates for on-campus employment for the same work.”¹⁵⁹ The student-athlete would also have to notify the department if he planned to work outside of the department and report his earnings: “He (The student-athlete in question) must report off-campus employment to the appropriate university officers at the inception of employment.”¹⁶⁰ Naturally, if the off-campus job paid the student-athlete beyond conference or university regulations or if the university deemed the job useless work, then the student-athlete could not accept the employment offer. The conference even restricted the types of revenue student-athletes could receive from governmental grants, stipulating that only four types of governmental assistance were acceptable for student-athletes: “Social Security, War Orphan recipients, G.I Bill benefits and student-athletes who were sons of veterans that has a non-service death situation. All other governmental aid to a student-athlete must be subtracted from a full grant-in-aid award.”¹⁶¹

Perhaps most insidiously, and importantly for the protesting Black athletes, neither conferences nor universities possessed any means to resolve disputes between coaches and student-athletes. In practice, this meant that the coach had all the power and athletes had no

¹⁵⁶ WAC Faculty Representatives and Director of Athletics, NCAA Freshmen Competition Rule, Collection Number 520000 Box 287 folder 23, December 14, 1966, University of Wyoming Special Collections, American Heritage Center, University of Wyoming.

¹⁵⁷ WAC Constitution, Section 201: Aid to athletes, Collection Number 510000, Box 295, 1968, University of Wyoming Special Collections, American Heritage Center, University of Wyoming, 30

¹⁵⁸ WAC Constitution, Section 201: Aid to athletes, Collection Number 510000, Box 295, 1968, University of Wyoming Special Collections, American Heritage Center, University of Wyoming, 31

¹⁵⁹ WAC Constitution, Section 201: Aid to athletes, Collection Number 510000, Box 295, 1968, University of Wyoming Special Collections, American Heritage Center, University of Wyoming 32.

¹⁶⁰ Ibid., P.32

¹⁶¹ Government Financed Scholarships, written by Paul Brechler, Commissioner of the WAC, Collection Number 520000 Box 287, folder 23, April 12, 1967, University of Wyoming Special Collections, American Heritage Center, University of Wyoming.

institutional recourse. No formal penalties existed within the Western Athletic Conference's constitution for mistreating athletes; most of the WAC's infractions centered around recruitment violations, ineligibility of student-athletes and falsifying records for student-athletes. The University of Wyoming followed suit: they also did not possess adequate, if any means through which student-athletes could pursue grievances. Though this oversight seems major, in the context of how student-athletes were managed, it is unsurprising that conferences and universities did not possess appeals provisions. As many employers struggled to suppress complaints from intransigent labor throughout the twentieth century, athletic departments were able to take unprecedented measures to suppress complaints from student-athletes.

The athletic department could treat student-athletes like labor because of how Wyoming's athletic department separated itself from the university structure, and how cultural forces within and outside of the university implicitly and explicitly rejected student-athletes as full students. By the 1940s, athletic department began to assert its authority by separating itself from the Department of Education. By 1945, Jacoby's annual reports were directed to the President of the University instead of the Dean of Physical Education; even in 1947, the athletic department seemed separate from the general university apparatus.¹⁶² By 1955, this artificial separation became permanent: the departments of Health, Physical Education, Recreation and the Athletic Department merged into the Division of Physical Education and Intercollegiate Athletics, "separate from the College of Education."

The athletic department's isolation, and by extension student-athlete's isolation, from other parts of the university was not necessarily opposed by university professors, or other administrators. The American Council of Education demonstrated how student-athletes, were considered separate from students in both blatant and more subtle ways. For example, the American Council on Education completely ignored student-athletes and athletics in their publications. In 1967, they published 24 issues from January to June and did not mention student-athletes or athletics once.¹⁶³ In the same year, the Council also conducted a study of freshmen and their preferred major; notably, this study attempted to subtly remove student-athletes by omitting any type of physical education, physical therapy as a major or career choice, options that student-athletes often chose to major in.¹⁶⁴ Yet, they did ask freshmen if they thought that athletics was "overemphasized," in which 4 percent of polled applicants agreed.¹⁶⁵ This ideological and pragmatic separation existed during the Black 14's protest in 1969: as Professor Leon Sinclair sadly noted, when one of her colleagues polled their students about how they felt about the black athlete's protest, her colleague found that every student thought that the student-athlete's constitutional rights were infringed, yet most, if not the vast majority, felt that Eaton's actions were justified.¹⁶⁶ These precedents, and in the case of grievance policies lack thereof, would

¹⁶² Annual Report of the Athletic Department, by Glen Jacoby, 1955-56, Collection Number 510000 Box 70, University of Wyoming Special Collections, American Heritage Center, University of Wyoming.

¹⁶³ ACE council publications 1966-1967, Collection Number 520000 Box 287, University of Wyoming Special Collections, American Heritage Center, University of Wyoming.

¹⁶⁴ ACE research reports, vol. 2, no. 1, 1967, national norms for entering college freshmen fall, 1966, Collection Number 520000 Box 287, University of Wyoming Special Collections, American Heritage Center, University of Wyoming, 11.

¹⁶⁵ *Ibid.*, P.11.

¹⁶⁶ Open Letter to Lloyd Eaton, written by Leon Sinclair, October 22, 1969, Collection Number 520000 Box 437, University of Wyoming Special Collections, American Heritage Center, University of Wyoming.

significantly impact the legal proceedings when the Black athletes filed a lawsuit against the university in fall of 1969.

“Like A Czar”: How Eaton and The University Handled Student-Athlete Protest

In the context of college athletics, Eaton’s actions fit perfectly within the labor-student nexus that the founders of collegiate athletics envisioned would prepare student-athletes for the labor market in the early twentieth century. The source of Eaton’s authority to dismiss players, and his ability to create and legitimize autocratic rules lay in how student-athletes were thought of as a future laborers in training. Walter Camp, the legendary coach lionized as the “father of American football,” argued that “The biting sarcasm of the coaches must be borne without a thought of rebellion; the unmerited blame must be accepted without even an excuse; every order must be instantly and unquestioningly obeyed.”¹⁶⁷ Eaton’s rules reflected this sentiment: simply questioning the rules was an act of rebellion that could not be tolerated. For Eaton, the simple acts of wearing arm bands outside of practice and games, and approaching him in a group warranted immediate dismissal from the university.

Requiring individuals to approach managers individually had long been a strategic way for management to neuter unionization. Managers often argued that labor needed to approach them individually for their own moral development. For Eaton, requiring student-athletes approach him individually was also cast as an important step in their moral development. Eaton argued that student-athletes, and these black protesting athletes in particular, were incapable of making rational decisions, and therefore required guidance. Eaton described himself and his rules as “old fashioned, but I believe such a rule is an important factor in achieving discipline, morale and team unity.”¹⁶⁸

Though this stance was certainly racist, and fit within larger contexts of white fear of the Civil Rights Movement, Black Radicalism, and Communism during the 1960s, Eaton’s power to manage student athletes in an “old fashioned” way was undergirded by Progressive Era assumptions about how to discipline and manage labor under Industrial Capitalism. Labor, in the minds of many industrialists, were in dire need of direction; student-athletes were no different in the minds of coaches and university administrators. Eaton’s ability to positively influence student-athlete’s moral decision-making, often through education, was a critical part of his popularity amongst the administration, and fans. Charles Miller, an alumnus of the university in 1938, argued that Eaton was the best coach in the university’s history because of his ability to morally guide student-athletes: “He isn’t just a football coach. He is the exact type of man to lead youth and to instill in them something other than football... I consider him the finest coach and person we have ever had in this capacity at Wyoming.”¹⁶⁹ Thus, Eaton’s concern lay in how another entity, the Black Student Union, attempted to influence malleable, almost infantile players that he believed was under his jurisdiction and attempted to influence the policy of the athletic department.

In the wake of the dismissal, Eaton, aided by the university administration, attempted to separate and thus weaken black players in two ways: attempting to separate black players from white players, and away from fellow students. In his statements to the media, Eaton repeatedly

¹⁶⁷ Walter Camp and Lorin F. Deland, “Effects of the Game on the Players,” *Football*, (Cambridge: The Riverside Press, 1896) P.48.

¹⁶⁸ Interview with Lloyd Eaton, Box 2, Folder 12, Accession Number 10405, American Heritage Center, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming.

¹⁶⁹Letter to Dr. John King, written by Charles Miller, December 10, 1966, Collection Number 520000, Box 286, University of Wyoming, American Heritage Center, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming.

argued that the players were under the influence of other groups, possibly with Anti-American, Pro-Communist influences: "We've played Brigham Young for many years, why haven't we had a demonstration before? And we've had Negro players here since 1960. I'll tell you why. This is the first year the Black Student Alliance has been on campus."¹⁷⁰ Eaton implied that the BSA did not reflect Wyoming students but influences from afar: "The WAC was picked because of Brigham Young. And we were picked as the trigger because of our rule against demonstrations. It all fits."¹⁷¹ Eaton attempted to clarify his rules on November 2nd, arguing that his rules against protest protected student-athlete's academic status: "We do not want our players participating in demonstrations of any nature because to do so distracts them from their purpose in being here: to get an education in rough football. Because the majority of our athletes are C students, they cannot afford the time from their studies to participate in demonstrations."¹⁷²

Separating student-athletes from their fellow students was of paramount importance for Eaton; his autocratic actions, though accepted within the context of university athletics, did not go unchallenged throughout the university. The dismissed athletes expressed their confusion and anger at Eaton's response. Joe Williams noted that few members of the administration even attempted to understand their protest, simply believing that the athletes had fallen sway to the national Black Power movement of the late 1960s.¹⁷³ Willie Hysaw argued that the entire protest was for a much more personal reason that Eaton had misunderstood entirely: "Then he said it was stupid for us to be protesting against a faith and a religion none of us knew about, talk about stupid! Do you know that Ted Williams is a Mormon?"¹⁷⁴ The protesting athletes, in contrast to Eaton's paternalistic accounts, knew exactly why and how they wanted to protest for their teammate's religious beliefs.

In a blistering response to Eaton's actions, the Student Senate of the Associated Students "expressed its shock at the callous insensitive treatment afforded to 14 Black athletes who acted on a matter of conscience with restraint, with moderation, and with responsibility."¹⁷⁵ The Student Senate was joined by the faculty at the College of Arts and Sciences, who echoed the student-Senate's arguments: "Fourteen Black athletes have been given deep human injury and has been dismissed without a trace of due process by Coach Lloyd Eaton." However, the Faculty-Senate diversified the assault upon Eaton's rules, and argued that Eaton's rules fundamentally violated protections that universities extended to students, faculty members and staff: the right to academic freedom, "since that dismissal not only contravenes the letter and spirit of the U.S and Wyoming constitutions but also makes a mockery of academic freedom and those inalienable rights which are a fundamental part of the American heritage that this faculty believes that the actions of Lloyd Eaton, notwithstanding the general excellence of his coaching, was unjust and unconstitutional."¹⁷⁶

¹⁷⁰ Pat Putnam, "No Defeats, Loads of Trouble," *Sports Illustrated*, November 3, 1969.

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ Ibid.

¹⁷⁴ Ibid.

¹⁷⁵ Executive Committee of the Student Senate of the Associated Students, "A Resolution Concerning the Suspension of the Black Athletes from the Football Team," Accession Number 10405, Box 1, Folder 2, October 18, 1969, University of Wyoming, American Heritage Center, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming.

¹⁷⁶ "A Resolution passed by the faculty of the Colleges of Arts and Sciences, Accession Number 10405, Box 1, Folder 9. October 30, 1969, University of Wyoming, American Heritage Center, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming.

Official student and faculty outcry was bolstered by general dissatisfaction about Eaton's decision from less official channels throughout campus. A set of "Concerned Outraged Students, Graduate Students and Faculty" attempted to organize a protest supporting the 14 dismissed athletes, arguing that Eaton's suspension violated the U.S Constitution. In a tweak towards Eaton and a subtle nod at the history of group gatherings in the foundation of the United States, the white students organizing the protests specifically highlighted the words "group protest" throughout their manifesto.¹⁷⁷ The manifesto noted the ultimate purpose of the peaceful protest; they planned to "reinstate 14 Concerned, Outraged Students and no one will be able to stop us."¹⁷⁸ Eaton's authority in this particular incident, according to these students, should fall within the boundaries of the U.S Constitution and respect for "fellow men."¹⁷⁹

Importantly, all three entities conceptualized student-athletes as students with all the protections that the university provided and as American citizens replete with Constitutional protections. The Student Senate argued that the policies enacted by Eaton blatantly violated the Black athlete's constitutional and rights as students, and the Faculty Senate agreed with their assessment: "In any reasonable system of university justice, students must at least be guaranteed their rights as American citizens under the Constitution. For that reason, we would like to make public our repudiation of Coach Eaton's actions in dismissing 14 black students from the football team. His rule concerning demonstrations clearly inhibited free expression by students, and violated the citizenship rights of the students involved."¹⁸⁰ If Constitutional arguments proved unpersuasive, the Student Senate threatened to cut off funding from the athletic department and take "further action for the removal of theories and individuals which are responsible for the situation" upon the athletic department if they did not host an open forum with the 14 Black athletes.¹⁸¹ The Faculty Senate agreed, stating that they would conduct a review of the athletic department's policies in the aftermath of the scandal.¹⁸²

These threats from the faculty and student senates were not prosaic: they sought to radically shift the ideological foundations of college athletics at Wyoming. However, Eaton had powerful historical and ideological supports interwoven throughout the university's structure, supports that the Faculty and Student Senates woefully underestimated.¹⁸³ The scope of Eaton's powers over his athletes was immensely wide because student-athletes did not fit cleanly within the university

¹⁷⁷ Concerned outraged Students, Graduate Students and Faculty, Accession Number 10405, Box 1, Folder 11, 1969, American Heritage Center, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

¹⁸⁰ Amendment for Senate Bill, written by the Faculty Senate, Accession Number 10405, Box 1, Folder 12, October 12, 1969, American Heritage Center, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming.

¹⁸¹ A Resolution Concerning the Suspension of the Black Athletes from the Football Team, written by Executive Committee of the Student Senate of the Associated Students, Accession Number 10405, Box 1, Folder 2. October 18, 1969, Irene L. Kuttunen Schubert Black 14 Collection, American Heritage Center, University of Wyoming.

¹⁸² Amendment for Senate Bill, written by the Faculty Senate, Accession Number 10405, Box 1, Folder 12, October 12, 1969, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming, American Heritage Center, University of Wyoming.

¹⁸³ For example, though both committees threatened to remove Eaton's funding, the athletic department only comprised of 2 percent of university expenditures, with the football team generating nearly 300,000 dollars by itself. The removal of funding simply would not have registered much to Eaton, as his team *generated* revenue for the university. Intercollegiate athletics, administrative offices, 1966-1967, Collection Number 520000, Box 286, Irene L. Kuttunen Schubert Black 14 Collection, American Heritage Center, University of Wyoming.

scaffolding built for students. Coaches throughout the twentieth century exploited this reality to legitimize their authority within university spaces.

Though the dismissal of the Black athletes raised eyebrows, in many ways it was business as usual. Often, universities did not consider student-athletes' unique status within their parameters: Coaches routinely instructed athletes to act in ways that violated both their rights as students and their constitutional rights.¹⁸⁴ For example, in 1968, a joint committee of representatives from The American Association of University Professors, U.S National Student Association and Association of American Colleges met to draft the Joint Statement on Rights and Freedoms of Students in the context of student protests throughout the decade. This document recognized rights and freedoms of students inside and outside of the classroom; the section on the freedom of expression is particularly useful in observing how athletic departments, particularly coaches, could employ negative space to neuter student-athlete protest.

According to faculty groups, student groups and a portion of administrators that regulated universities across the country, students had both enumerated and unenumerated rights that should not be infringed upon. The joint committee argued that students had a fundamental right to express their views on a multitude of different issues, including institutional policies. Accordingly, the section on student expression reads "Students and Student Organizations should be free to examine and discuss all questions of interest to them, and to express these opinions publicly and privately. They should always be free to support causes by orderly means which do not disrupt the regular and essential operation of the institution... As constituents of the academic community, students should be free, individually and collectively, to express their views on institutional policy and matters of general interest to the student body."¹⁸⁵ This was a massive step in deconstructing *in locus parentis* and allotted students far greater freedoms for expressing political, social or cultural opinions. Yet, this document could not penetrate the negative space surrounding the athletic department. Because the drafters of the Statement on Rights and Freedoms did not specifically address athletes and their unique position as student-athletes, athletic departments and coaches argued that student-athlete's unique status as both student and athlete meant that they should fall under the athletic department's jurisdiction. As a result, Eaton ignored this particular ruling when he dismissed the Black 14 from the team. Rather than possessing unalienable rights and protections, Eaton argued that student-athletes' rights and freedoms flowed through him.

Eaton had powerful allies who believed in the coaches' prerogative to discipline their players as they saw fit. His allies grounded their logics in Progressive Era arguments around sport's ability to induce morality and civility in its audience and those who played. Glenn Jacoby, the athletic director, truly believed in the argument that athletics provided crucial training into how to be a more efficient human being. In a report, Jacoby argued that "Today's athletes must be student-athletes: they must excel in the classroom as well as on the field. The modern athlete cannot have a "slow" or sub-par mind; the inferior student simply cannot grasp the magnitude of what is necessary to go onto the field of play fully prepared for victory... Since Lloyd Eaton became head coach five years ago, the classroom performance of Cowboy football players has been better than

¹⁸⁴ For example, Mel Hamilton recalled he was instructed by Eaton to break up with his girlfriend because she was white.

¹⁸⁵ Joint Statement on Rights, written by American Association of University Professors, U.S National Student Association and Association of American Colleges, Accession Number 10405, Box 1, Folder 15, Irene L. Kuttunen Schubert Black 14 Collection, American Heritage Center, University of Wyoming.

that of all undergraduate men.”¹⁸⁶ In more than a tinge of irony, Jacoby’s assertions contrasted with Eaton’s assertions that the student-athletes under his charge were “C students” and thus in need of firm management.

Jacoby clarified his arguments in an open forum for the dismissed Black athletes and a disciplinary hearing conducted between the dismissed Black athletes, the Board of Directors, the Governor of Wyoming and the coaching staff a few days after Eaton dismissed them. These meetings were not charitably offered by the university; the dismissed athletes pushed for these meetings, along with their allies in the Faculty Senate and Student Senate. As a result, Wyoming felt compelled to hold two meetings between the coaching staff, the dismissed Black athletes and the university administration: an open forum and a closed meeting. Yet, neither hearing would prove beneficial for the Black athletes. Eaton’s policy was supported at every level of the administration. Jacoby supported Eaton in a couple of ways: he shielded Eaton from public pressure and he reaffirmed the position of the athletic department in favor of Eaton’s decision.

In the open forum, most members of the audience expected Eaton to provide an elaborate explanation of his policies, why he dismissed the protesting athletes and how he planned to mitigate the situation. The audience, the dismissed athletes included, would be disappointed to see Jacoby in Eaton’s place; perhaps even more disappointing, Jacoby did not provide any additional clarity around Eaton’s decision. Jacoby repeated Eaton’s policy that, if they hoped to be reinstated, the athletes were required to see Eaton individually, not as a group. Additionally, Jacoby articulated a new argument: “The best way to demonstrate to BYU that a black man is not an inferior being is to soundly defeat BYU on the football field.”¹⁸⁷ Though this sounds quite similar to Vince Lombardi’s iconic quote about victory, Jacoby’s arguments demonstrate the ideological strength of college sport’s founders in the early twentieth century. Jacoby’s arguments reference Camp’s assertion that simply watching sport could provide the audience with lessons about morality, civility, and hard work; for Jacoby, simply watching Black athletes work on the football field would provide sufficient proof to the Mormon church that African Americans were worthy to join.¹⁸⁸ Thus, by arguing that the playing field was the best place to demonstrate black equality, Jacoby implicitly supported the nature of the coaches’ authority over student-athletes: coaches required immense amounts of authority over student-athletes in order to teach them discipline.

An ally no less powerful than the President of the University, William Carlson, supported Eaton’s power to discipline student-athletes as labor. At the closed meeting, Carlson repeatedly affirmed Eaton’s decisions, tacitly and openly. In his testimony to the district court, Carlson recalled to the Board that Eaton stated to him, “I didn’t give them (the protesting Black athletes) much of a chance. What was I going to hear? A bunch of excuses. By wearing those armbands, they were in open defiance of the rule.”¹⁸⁹ Carlson thus supported the broader power dynamics of Eaton’s rule and the ideology behind it: it was Eaton’s decision to decide discipline and punishment for student-athletes, even when they extend into, and over university regulations for students. As the Student Code and Regulations stated, “In all situations, procedural fair play requires that the student be informed of the nature and the charges against him, that he be given a

¹⁸⁶ Memorandum on athletic recruiting policy at the university of Wyoming, written by Glenn Jacoby, Jan. 25, 1967, Collection Number 520000, Box 286, Irene L. Kuttunen Schubert Black 14 Collection, American Heritage Center, University of Wyoming.

¹⁸⁷ Ibid.

¹⁸⁸ Walter Camp, “The Captain and the Coach,” in *The Book of Football*, (New York: The Century Co, 1910).

¹⁸⁹ William Carlson’s testimony to the District Court, 1970, Accession Number 10405, Box 2, Folder 12, Irene L. Kuttunen Schubert Black 14 Collection, American Heritage Center, University of Wyoming.

fair opportunity to refute them, that the institution not be arbitrary in its actions and that there be a provision for appeals of a decision.”¹⁹⁰ Yet, Eaton, by his own admission, made an arbitrary decision, and Eaton, by his own admission, did not give the athletes an opportunity to refute his assertions. Both admissions seem to be clear violations of the university’s freedom of expression policy. Yet Carlson did not oppose these disciplinary policies. As he recollected in his interview to the District Court of Wyoming, even after the athletes met with the president and the board of trustees, Eaton and his coaching staff still refused to negotiate with the players as a group.¹⁹¹ As Eaton’s boss, Carlson could have ordered Eaton to meet with the protesting players. Instead, Carlson accepted Eaton’s rules for the reinstatement of the players, though these rules were constitutionally suspect: no protests and no group meetings.¹⁹² The President of the University of Wyoming Board of Directors, C.E Hollen concurred with both Carlson and Eaton. “The Board felt that Coach Eaton had made a very firm point with respect to the need to establish discipline among members of the University of Wyoming football team and that such activities as those undertaken by the fourteen players would, in fact, create dissention and disunity, lower morale and team work insofar as the football squad is concerned.”¹⁹³

Eaton bolstered his authority by obtaining support from outside of the university. The most important figure was the governor of Wyoming, Governor Stanley Hathaway. Unlike many other governors, Hathaway was very involved with the university apparatus; he was present for the closed meeting between the Black athletes and the university, and he was often asked his opinions on how student-athletes should be disciplined and managed. Hathaway argued in concert with the university apparatus and Eaton: the protesting athletes not only needed to approach Eaton individually for reinstatement, but Eaton also had the power to discipline his team as he saw fit. However, his argument differed from Eaton and the university’s in one crucial way. Hathaway bolstered their arguments by noting that the protesting Black athletes stepped on a sacred right of all Americans. He argued that “the 14 Plaintiff football players had selected the wrong issue to protest against, because they were demonstrating against Freedom of Religion.”¹⁹⁴ This constitutional argument blended seamlessly with Eaton’s arguments that his players needed his benevolent hand to guide them away from their inability to fully grasp the consequences of their actions. It also further legitimized the dismissal: if these Black players could not accept the coaches’ benevolent guidance, they would need to be removed to protect the university from constitutional impropriety.

Perhaps Carlson and the Board felt the situation escalated out of control: in the short time from Eaton’s dismissal to the closed hearing, the black student athlete’s position had become significantly more radical. Rather than working with Eaton around how to protest against BYU, Joe Williams and the other 13 dismissed athletes told the closed committee that they would refuse to play that week against BYU without their black armbands.¹⁹⁵ Some Black players on the team

¹⁹⁰ Joint Statement on the Rights and Freedoms of Students, 1969, Accession Number 10405, Box 1, Folder 15. Irene L. Kuttunen Schubert Black 14 Collection, American Heritage Center, University of Wyoming, 5.

¹⁹¹ William Carlson’s testimony to the District Court, 1970, Accession Number 10405, Box 2, Folder 12, Irene L. Kuttunen Schubert Black 14 Collection, American Heritage Center, University of Wyoming.

¹⁹² Ibid.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Accession Number 10405, Box 2, Folder 12, 1969, Irene L. Kuttunen Schubert Black 14 Collection, American Heritage Center, University of Wyoming.

took an even more radical position: they refused to play for the university unless Eaton was fired.¹⁹⁶ In the span of twelve hours, these Black athletes attempted to change the entire ideological structure of university athletics by attempting to dictate to the university whom it would employ as head coach. Their new demands transcended both student-athlete's and student power in the 1960s; though students often demanded the removal of faculty throughout the decade, calling for a coach's resignation was different because of the immense power that coaches wield over their respective programs. Thus, for Eaton, and for the university, the student-athletes weren't simply insubordinate students; they cemented their status as insubordinate laborers. These athletes, to the administration, were far too dangerous to keep on campus. As a result, the committee decided that Eaton's policy was legitimate, and refused to reinstate the dismissed athletes.

The Right to Assemble: Incorporation, Organized Labor, Students and the Freedom of Assembly

The Black 14 refused to go quietly into the night. They appealed to Wyoming's district court for injunctive relief. The subsequent court case, *Williams V Eaton*, had the potential to fundamentally reshape college athletics. It certainly appeared as if the athletes' case had merits. Eaton's rule barring protest was constitutionally suspect: it violated student-athletes' First Amendment right to protest *Prima Facie*. Eaton's rule that forced student-athletes to approach him individually and prevented any type of group meeting also violated the First Amendment's freedom of assembly. Finally, the decision conflicted with the University of Wyoming's disciplinary policies for students.

However, both the district and the circuit court did not consider these arguments. They reinforced Eaton's disciplinary policies, and the implications of these policies. The courts ruled that as a public university, the University of Wyoming could not actively support the black athlete's protest because it would create a First Amendment conflict between freedom of religion and the University's anti-religious discrimination clause. Yet, based on the testimony of the protesting athletes, and a close reading of case law established during the twentieth century, I argue that the justices ruled in favor of an imagined constitutional conflict over the black athlete's constitutional protections. I argue that this crisis was imagined in two distinct ways: the justices imagined the protest occurring in a public setting, not the private setting in which it actually happened in and attributed the dismissal on First Amendment grounds, rather than Eaton's logic at the time. As a result, the justices argued that the department was justified to use extraordinary power to prevent these violations from occurring. The constitutional crisis that the justices imagined was a result of how Wyoming's athletic department functioned within negative space. To the justices, the space the athletic department occupied was a unique one, a space that law should not insert itself into. As a result of these rulings, both the district and circuit court of appeals implicitly and at times explicitly accepted the university's framework that student-athletes were in fact closer to laborers than students.

This decision was unusual: from the 1930s to the 1960s, courts ruled increasingly in favor of expanding freedom of assembly, particularly for student protestors in the 1960s. Yet, the court's decisions fit snugly within an earlier historical context, when the federal state often sided with capital in disputes between organized labor and capital. Throughout the late nineteenth century, and into the twentieth century, courts had often restricted labor's ability to assemble, siding with corporation's arguments that organized labor posed a danger to public safety. Though the Supreme Court's rationale differed from the Wyoming District and Circuit Court of Appeals nearly 60 years later, the results were still the same: management had the ability to remove constitutional

¹⁹⁶ Ibid.

protections from citizens. Here, I provide a brief sketch of precedent cases of the legal context that influenced *Williams v Eaton*.

Throughout the late nineteenth century, corporations had attempted to use the courts to bolster their ideological and material arguments against unionization. Yet, it was perhaps one of the most vicious racial massacres of the Reconstruction era that provided corporations with the most ammunition to hinder and prevent unionization: the Colfax Massacre. In 1876, in a dispute about the gubernatorial election in Louisiana, an angry white mob, led by Cruikshank, massacred about 100 African Americans and attempted to overturn the election in their favor. They were jailed and appealed their convictions; In *United States v. Cruikshank*, the U.S. Supreme Court threw out these convictions. Though this case is (rightly) often cited as the predominant example of failure of Reconstruction, the case also had very important implications for the First Amendment. The justices in the case distinguished the freedom of assembly as a right that was protected at the federal level but not at the state level; thus, it distinguished federal and state citizenry and the protections that each entity could enforce.¹⁹⁷ In a concurrent opinion, justice Morrison R. Waite argued that the First Amendment applied to the federal government but not state governments as an enumerated right:

“It (The First Amendment) was not intended to limit the powers of the State governments in respect to their own citizens, but to operate on the National government alone... The particular amendment now under consideration assumes the existence of the right of the people to assemble for lawful purposes, and protects it against encroachment by Congress. The right was not created by the amendment; neither was its continuance guaranteed, except as against congressional interference. For their protection in its enjoyment, therefore, the people must look to the States. The power for that purpose was originally placed there, and it has never been surrendered to the United States.”¹⁹⁸

By allowing states’ the power to choose who deserves First Amendment protections, The Supreme Court thus carved out negative space throughout the United States. Though the University of Wyoming did not cite *Cruikshank* as a precedent case, the athletic department took advantage of this legal oversight to suppress student-athlete protest.

Forcing citizens to look to individual states for constitutional protections had a tangible aftereffect on labor-management relations. Nineteenth and early Twentieth century corporations gleefully took advantage of the negative space the Supreme Court generously provided. *Cruikshank* left labor unions and unionists more vulnerable to attack by corporations because corporate executives could ally with state legislatures to prevent and mitigate strikes, often violently. Using public safety as a guise, some firms even attempted to prevent unions from meeting.¹⁹⁹ This occurred most famously at Ford manufacturing plants and Pullman’s company town, both of which explicitly blacklisted workers that discussed unionization or read about unions, in the case of employees at Pullman. Corporate executives often argued that the simple

¹⁹⁷ Through this process, called incorporation, states adopt portions of the Bill of Rights into their constitutions. *United States v. Cruikshank*, 92 U.S. 542 (Supreme Court, 1876).

¹⁹⁸ Justice Morrison R. Waite in *United States v. Cruikshank*, 92 U.S. 542 (Supreme Court, 1876).

¹⁹⁹ States often sided with organized capital to restrict assemblies of workmen; according to Jonathon Levy, states used militias to put down at least 25 strikes in 1890 alone.

meeting of unions was a threat to public safety and used negative space to prevent freedom of speech or assembly.²⁰⁰

By 1890, corporations had obtained an entirely new power, based heavily in English law but given a new purpose in the context of *Cruikshank*: the injunction, best seen in *In re Debs* in 1895.²⁰¹ Corporations were able to obtain injunctions from both state and federal courts to criminalize labor leaders for leading strikes. At their most powerful, they stripped defendants of their constitutional rights because it denied labor leaders' right to a jury trial, and their First Amendment rights of speech and assembly.²⁰² As a result, corporations often passed rules that explicitly prevented employees from meeting under the guise of public safety, without fair trial or warning.²⁰³ These injunctions implicitly relied on the negative space established by *Cruikshank*: individual states, and by 1890 even the federal government, had the power to ignore constitutional rights of its citizens, in particular organized labor groups.

The legacy of *Cruikshank* helped structure relations between corporations and labor for nearly 60 years by allowing state governments to choose if they wanted to protect the freedom of speech and assembly rights of individuals within their borders. However, the Supreme Court dramatically allowed the freedom of assembly for laborers in the 1930s with two cases: *De Jonge v. Oregon* in 1937, *Hague v. Committee for Industrial Organization* in 1939. In *De Jonge*, the Court ruled that that state governments may not violate the constitutional right of peaceable assembly and that the protections of the First Amendment must be incorporated into individual state constitutions.²⁰⁴ The Supreme Court thus removed the negative space that *Cruikshank* created by arguing that states did not possess the power to strip citizens' right to peacefully assemble. As the Court noted, "He (De Jonge) was accordingly deprived of the benefit of evidence as to the orderly and lawful conduct of the meeting and that it was not called or used for the advocacy any unlawful action. His sole offense as charged, and for which he was convicted and sentenced to imprisonment for seven years, was that he had assisted in the conduct of a public meeting, albeit otherwise lawful, which was held under the auspices of the Communist Party."²⁰⁵ The Court took this interpretation even further in *Hague*; they ruled that banning a group of citizens, in this case a labor union, from holding political meetings in a public place violated the group's freedom to assemble under the First Amendment.²⁰⁶ Thus, in these two cases, the Supreme Court extended the protections of the First Amendment to citizens within individual states, a premise that the student-athletes' arguments rested upon in *Williams V Eaton*.

The Supreme Court also incorporated First Amendment constitutional protections for public employees in two landmark cases in the 1960s, *Keyishian v Board of Regions* and *Pickering v*

²⁰⁰ Jonathan Levy, "Class Warfare and Home Life," in *American Capitalism: A History of the United States*, (New York: Random House, 2021).

²⁰¹ Linda G. Schneider "Industrial Unions, the Pullman Strike, Injunctions, and *In re Debs* (1895): The Debs Revolution," in *American Labor Struggles and Law Histories*, ed. Kenneth Casebeer, (Durham, N.C.: Carolina Academic Press, 2011). Injunctions are orders that prevents a person from committing an allegedly illegal act in advance; these orders meant that the supposedly guilty person was not judged by a jury, but by a judge.

²⁰² Ibid.

²⁰³ Charles Gregory, quoted in Linda G. Schneider, "Industrial Union, The Pullman Strike, Injunctions, and *In re Rebs*," *American Labor Struggles and Law Histories*, ed. Kenneth Casebeer, (Durham, N.C.: Carolina Academic Press, 2011).

²⁰⁴ *De Jonge V. Oregon*, 299 U.S. 353 (Supreme Court, 1937).

²⁰⁵ *De Jonge V. Oregon*, 299 U.S. 353 (Supreme Court, 1937).

²⁰⁶ *Hague, Mayor, Et Al. V. Committee For Industrial Organization Et Al.*, 307 U.S. 496 (Supreme Court, 1939).

Board of Education. In *In Keyishian*, decided only two years prior to *Williams V Eaton*, the Court declared a New York law that made membership in the Communist Party evidence for the dismissal of public school teachers unconstitutional, holding that neither federal nor state governments can force employees to relinquish their First Amendment right of association as a condition of employment.²⁰⁷ As the Court argued, “Under our traditions beliefs are personal and not a matter of mere association, and men in adhering to a political party or other organization do not subscribe unqualifiedly to all of its platforms or asserted principles. A law which applies to membership without the ‘specific intent’ to further the illegal aims of the organization infringes unnecessarily on protected freedoms. It rests on the doctrine of ‘guilt by association’ which has no place here.”²⁰⁸

Thus, for the Court, belonging to an organization that the employer disagreed with, even if an employee knew of the organization’s unlawful goals, could not justify a public employee’s termination if the employee did not participate in illegal activities. The Supreme Court strengthened this precedent in *Pickering* the following year. The Court ruled that the state could not remove a teacher’s First Amendment protections as a condition of employment. As Justice Thurgood Marshall argued in the majority opinion, the state and employees must balance their interests in order to promote the efficiencies of their public services, and in doing so, “the state cannot impose penalties on First Amendment activities like speech and assembly if it does not interfere with the regulation of the service being conducted.”²⁰⁹ Here, the Court continued to extend constitutional protections, thus restricting the negative space corporations could use to manage their employees.

Organized labor was not the only group to benefit from the Court’s expansion of the freedom of assembly. By the 1960s, Civil Rights protestors and student protestors also benefitted from the Court’s expansion of First Amendment protections in two landmark cases: *Cox V Louisiana* in 1965 and *Tinker v Des Moines* in 1969. *Tinker* is significantly more famous, and impactful for students, and still is one of the seminal cases for First Amendment rights amongst students. The facts of the case bear a striking resemblance to the Black 14’s plight: after becoming aware of a plan among some students to protest the Vietnam War by wearing black armbands during school hours, school officials in Des Moines, Iowa, specifically banned wearing armbands in their schools. The students defied school authorities and wore the armbands in violation of the new policy; they were suspended, and subsequently sued the school, alleging that the school officials violated their First Amendment rights. The Supreme Court ruled in favor of the students, arguing that public school employees could not restrict the First Amendment rights of students unless the officials could reasonably believe that such speech or demonstrations would substantially disrupt school activities or the constitutional rights of other students.²¹⁰ As the justices in *Tinker* famously penned, “First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or

²⁰⁷ *Keyishian V Board of Regents*, 385 U.S 589, (Supreme Court, 1967).

²⁰⁸ *Keyishian V Board of Regents*, 385 U.S 589, 1957; Lucius Barker and Twiley Barker Jr, “Freedom for Expression, Assembly and Association,” in *Civil Liberties and the Constitution Cases and Commentary*, (New Jersey: Prentice Hall, 1993), 150.

²⁰⁹ *Pickering v. Board of Education*, 391 U.S. 563 (Supreme Court, 1968)

²¹⁰ *Tinker Et Al. V. Des Moines Independent Community School District Et Al.*, 393 U.S. 503 (Supreme Court, 1969)

teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”²¹¹ In *Tinker*, students found a benevolent hand that extended constitutional protections.

Though *Tinker* is more famous, *Cox* was as much, if not a more important precedent for student-athlete protest. In *Cox*, the Supreme Court ruled a constitutionally valid law regulating public demonstrations can still be unconstitutional if the statute, or rule in question grants undue discretion to public officials charged with administering and enforcing the law.²¹² Thus, public officials could not be given overly broad powers to administer and enforce law and rules; these officials must operate within constitutionally established boundaries. As the Court noted, “Since we are committed to a government of laws and not of men, it is of the utmost importance that the administration of justice be absolutely fair and orderly... There is an equally plain requirement for laws and regulations to be drawn so as to give citizens fair warning as to what is illegal; for regulation of conduct that involves freedom of speech and assembly not to be so broad in scope as to stifle First Amendment freedoms, which “need breathing space to survive.”²¹³ Thus, the Court struck a blow against autocratic enforcement of established laws; public officials could not use negative space to deprive citizens of their right to peacefully assemble to enforce the law.

King of the Court: Judicial Reaction to Coaches prerogative.

Thus, throughout the mid-twentieth century, the Supreme Court consistently undermined the negative space that *Cruikshank* created by incorporating First Amendment rights to state constitutions, extending protections to organized labor, curtailing the power of public officials to enforce constitutional laws, and extending First Amendment protections to students at public schools and universities. Both the Wyoming District Court and Circuit Courts had these replete precedents to guide their decision, yet both courts’ rulings directly contradicted nearly 40 years of established precedent. The judges carved out negative space within universities: space in which coaches and universities could manage and discipline student-athletes as if they did not possess constitutional protections worth protecting.

The protesting athletes presented a multifaceted legal assault upon Eaton’s policies, and the university’s policies that supported their unilateral dismissal from the University. First, they argued that Eaton did not command his own separate fiefdom, but was subject to constitutional and university regulations. Eaton was “the duly appointed and acting head football coach at the University of Wyoming. He is the agent and servant of the Board of Trustees of said university and under its authority, he supervises the operation of the football team of the University. He therefore holds office and performs official duties and functions under the authority of the University, and the laws of the State of Wyoming.”²¹⁴ The athletes’ authored this line of attack in response to the University’s argument that the Board of Trustees dismissed the student-athletes because they, not Eaton, possessed the authority to do so.

In conjunction, the plaintiffs argued that, though coaches had a degree of authority over student-athletes, their authority could not compel them to commit unconstitutional acts. They quoted at length from *Dunham v Pulsifer*, a precedent case in which student-athletes were managed similarly to the plaintiffs: “The coach’s right to regulate the lives of his team members does have limits however. A coach may not demand obedience to a rule which does not in some way further other proper objectives of participation and performance. It is bootstrap reasoning indeed to say that disobedience of any rule weakens the coach’s authority or shows a lack of desire on the part

²¹¹ Ibid.

²¹² *Cox V. Louisiana*, 379 U.S. 559 (Supreme Court, 1965)

²¹³ *Cox V. Louisiana*, 379 U.S. 559 (Supreme Court, 1965)

²¹⁴ *Williams V Eaton*, “Initial complaint from the Plaintiffs,” District Court of Wyoming, October 19, 1968.

of the competitor thus justifying obedience to any rule however arbitrary.”²¹⁵ The athletes thus highlighted a critical pillar of negative space: the athletic department, in principle, acted as if it was a separate space, unaccountable to state or federal regulations.

Additionally, the 14 protesting athletes argued that Eaton’s decision to dismiss them violated their First Amendment right to speech and assembly, their Fourteenth Amendment right to equal protection of the law, and their Ninth Amendment protections, “This (the dismissal) was a deprivation of the Black athlete’s right to peacefully demonstrate under the Constitution of the United States. The Plaintiffs were suspended and dismissed from the football team by Eaton without cause and for the sole reason that they wore armbands in a peaceable and symbolic demonstration.”²¹⁶ Presciently, the athletes argued that they were dismissed without a formal hearing, stripped of an opportunity to defend themselves at the moment of dismissal and were not notified why they were dismissed, all of which were constitutional violations: “That the act of dismissal was taken without a proper hearing, without any written notice of charge or specification of charges, without the presentation of evidence against the Plaintiffs, without giving the Plaintiffs the opportunity to present evidence in their own behalf and in violation of the rights of the Plaintiffs secured by the First, Ninth and Fourteenth Amendments of the U.S Constitution.”²¹⁷

Perhaps most importantly, protesting athletes dismantled the assumption that Eaton’s policies were intrinsically beneficial for their moral development. Eaton’s autocratic rule structure depended on the assumption that his intentions were benevolent. Far from assisting with their intellectual or moral growth, the protesting athletes argued that Eaton’s rules were designed to chill behavior that he did not approve of, regardless if it violated constitutional or University protections: “The suspension and dismissal of the Plaintiffs from their positions as members of the University of Wyoming football team had the effect of and was intended to penalize the Plaintiffs for exercising the rights protected by the First, Ninth and Fourteenth amendments of the U.S Constitution and to compel to the personal and undefined concepts of personal behavior and conduct and self-expression of Coach Lloyd Eaton and athletic director Glen Jacoby.”²¹⁸ If Eaton was interested in their moral and intellectual development, the plaintiffs argued, then he’d allow them to think critically about sensitive topics like religious issues and come to their own conclusions about the subject matter, “religion is not immunized from criticism and discussion, and even attack in this country... Equally obvious is it that a state may not unduly suppress free communication of views, religious or other, under the guise of conserving desirable conditions.”²¹⁹

Both Justice Kerr and Justice Holloway, the presiding justice for Wyoming’s circuit court of appeals were persuaded by the University’s rationale. The district court’s ruling consolidated the coach’s authority over their players.²²⁰ Justice Kerr, the presiding justice for Wyoming’s district

²¹⁵ Dunham v. Pulsifer, 312 F. Supp. 411, (District court of Vermont, 1970), quoted in *Williams V Eaton*, “Brief for the Plaintiffs,” Tenth Circuit Court of Appeals, 1970.

²¹⁶ *Williams V Eaton*, “Initial complaint from the Plaintiffs,” District Court of Wyoming, October 19, 1968.

²¹⁷ *Ibid*.

²¹⁸ *Williams V Eaton*, “Initial complaint from the Plaintiffs,” District Court of Wyoming, October 19, 1968.

²¹⁹ *Williams V Eaton*, “Brief for the Plaintiffs,” Tenth Circuit Court of Appeals, 1970.

²²⁰ *Williams v. Eaton*, 443 F.2d 422 (District Court of Wyoming, 1971) Though the appellate court chastised the district court’s acceptance of the university’s neutrality defense without proper investigation of facts, their ruling was limited, coincidentally, by the discrepancy in facts from both sides. Justice Holloway notes “While we realize the importance of the principles which the District Court was properly considering, the facts relating to them were in significant conflict. After trial ultimate findings may show that the plaintiffs were dismissed from the team because of their demands to wear the armbands during the game.” Therefore, the first amendment dismissal was conducted

court, ruled that the Board of Trustees's fears of a First Amendment violation were legitimate: "The Court finds that had the defendants, as governing officials of the University of Wyoming, an agency of the State of Wyoming, acceded to the demands of the fourteen plaintiffs aforesaid, such action would violate of the First Amendment of the United States Constitution prohibiting the establishment of religion, mandating upon the states the principle of separation of church and state and the requirement of complete neutrality and that it would have been further violative of Article 7, Section 12 of the Wyoming Constitution directing that no sectarian tenets or doctrine shall be taught or favored in any public school or institution."²²¹ Both the athletic department and the university apparatus as a whole must have breathed a sigh of relief, for the court's extrapolation of neutrality gave Eaton a judicious amount of power.

C.E Hollen provided perhaps the cleanest explanation of the University's position. In his testimony, he offered four reasons for the Board's decision. First, the Board felt that they were mandated by state and federal law to respect freedom of religion, and therefore could not support their athletes protesting against a religion.²²² Second, the Board felt that the protestors possessed knowledge of Eaton's rules in advance of their protest, and therefore could not lodge a complaint against rules they already knew about.²²³ Third, the Board noted that Eaton needed to maintain discipline among the football team, and thus dismissing the Wyoming 14 was an essential part of Eaton's power required to coach the team.²²⁴ However, the fourth reason was perhaps the most compelling reason made in the University's brief to the court: student-athletes were, at nearly all times, representatives of the university, and this relationship allowed Eaton the authority to discipline student-athletes as he saw fit.

Perhaps the most impactful rationale that the Court accepted was that Wyoming's student-athletes were official representatives of the university at nearly all times. This was not a unique argument. In their panic to regulate and ban "tramp" athletes in the 1910s and 1920s, universities and conferences argued that student-athletes should be linked to universities by making them "representatives" of the universities they attended. In the 1920s, during an athletic scandal throughout multiple Mountain West schools in which athletes were imported to play at universities without being registered at the university in question, the Presidents of Mountain West universities wanted to reinforce that student-athletes were indeed parts of the university: "We recognize that all the rules which are instituted by the Conference from time to time have as their purpose the working out in practice of this fundamental principle: that an athletic team representing a college or university in an inter-collegiate contest should be truly representative of the institution; that it should be made up of bona fide students who have been attracted to the institution and who remain in the institution because of its locality..."²²⁵

By 1950, representation metastasized into a role that helped transform student-athletes into labor. For example, in 1953, Jacoby also called student-athletes representatives of the university, but student-athletes had far more responsibilities as representatives than they did in 1920: "Future

without full consideration of the facts at hand. Therefore, they could not rule in favor of either side, but order a retrial, which the district court ruled in favor of the University of Wyoming.

²²¹ Williams V. Eaton, 310 F.Supp. 1342 (United States District Court of Wyoming, 1970), Motion to Dismiss.

²²² William Carlson's testimony to the District Court, 1970, Accession Number 10405, Box 2, Folder 12, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming, American Heritage Center.

²²³ Ibid.

²²⁴ Ibid.

²²⁵ Presidents of the State Institutions of Higher Education in Colorado, "Final Draft of Resolutions approved unanimously by the Presidents of the State Institutions of Higher Education in Colorado, 1925-1927, P.2.

emphasis would continue to maintain the recognition of the proper place of intercollegiate sport in the total university picture. Its importance is illustrated by the acute awareness on the part of the Athletic Director and his staff that for many people of the state, as well as for thousands outside Wyoming, Cowboy athletic teams represent the only contact with the University. The conduct of these teams, therefore, is extremely vital. Cowboy sports representatives should not only evoke a feeling of pride from the standpoint of victory against defeat, but for every Wyoming resident, should maintain the highest standards of moral behavior and sportsmanship. Then, and only then, can the department of athletics fulfill its obligation to the university and the State.”²²⁶ In only thirty years, student-athlete representation obtained a political, social and labor dimension of paramount importance. Student-athletes’ responsibilities as representatives did not simply extend to the university; they were representatives of every citizen of the state of Wyoming.

Thus, student-athlete’s status as representatives had important implications for how the university framed and conceptualized them in *Williams V Eaton*. The university of Wyoming argued that student-athletes could not be simply students because they were representatives of the university: “The proposition that the Plaintiffs were not mere private persons when performing as members of the University of Wyoming football team, but were, in fact, official representatives of the University... They were not mere students, but as individuals they could and did undertake greater responsibilities and obligations when they accepted football scholarships and joined the football team. They agreed to abide by the National Collegiate Athletic Association and Western Athletic Conference rules and promised adherence to the coach's rules (II, 280).”²²⁷ As a result, to the university, when the student-athletes approached Eaton, they were representatives of the university, replete with all the constitutional responsibilities of state-sponsored university representatives.

Yet, the university introduced a thorny problem by calling student-athletes state-sponsored representatives: their view of representatives and representation often implied that student-athletes were employees. As the university argued, “To consider the proposed acts of the Plaintiffs as the acts of mere students belies the real facts; their threatened acts must be judged on the basis of their status as contractually obligated football players, officially representing the University of Wyoming on a State-owned playing field, with the support of State funds.”²²⁸ Here, though the university called student-athletes representatives, their description of student-athletes skewed closer to organized labor. After all, the university called student-athletes “contractually obligated football players,” a description that fit contractual labor far more aptly, literally if we take the university’s quote at face value. The university did not call student-athletes’ scholarships wages, but the mechanisms of control that coaches and the athletic department had over student-athletes go even further than many corporations’ control over their employees. According the University, the coaching staff had continuous control of the actions of its teams and the members, the time and place of the appearance of the team, the composition of the team, its plays, the color of uniform, the training and eligibility of the players.²²⁹ These measures of control were immense in scope; the university claimed to have continuous control over nearly every aspect of student-athlete’s lives; even the hair and dress of student-athletes fell under the theoretical sway of the university. The continuous representation of student-athletes was thus, quite literal: nearly every aspect of student-

²²⁶ Abstract of the Annual Report of the Athletic Department, written by Glenn Jacoby, 1953-54, Collection Number 510000 Box 70, University of Wyoming, American Heritage Center.

²²⁷ *Williams V Eaton*, “Brief For The Defendant,” The United States Court Of Appeals For The Tenth Circuit, 1971.

²²⁸ *Ibid.*, 16.

²²⁹ *Ibid.*

athlete's lives were, or perhaps in the minds of the university, should be, considered a form of representation.

However, the university conspicuously overlooked Eaton's role as a university representative. If student-athletes wearing black arm bands potentially violated the university's First Amendment obligations, then how could Eaton violate student-athlete's First Amendment protections by banning student-athletes from protesting for any reason and approaching him as a group? Was he a representative of the university as well? If so, how could one representative completely disregard the constitutional rights of another?

The university attempted to sidestep these thorny questions by simultaneously arguing that Eaton was not a representative of the university, so he was not obliged to the constitutional responsibilities of a state-sponsored representative, but by dismissing the protesting athletes, Eaton fulfilled a necessary part of his employment as the head coach of the football team, power that was vested to him by the state of Wyoming.²³⁰ In the district court's ruling, Justice Kerr did not acknowledge Eaton as a representative of the university, chiefly because the University did not argue that Eaton was a representative in their briefs or testimony. However, in their brief to the circuit court, the university's arguments centered around the entire athletic department, student-athletes included, being representatives of the university, with the constitutional responsibilities attached to state employees. This historical rewriting had an important corollary: to the university, Eaton had the power to remove student-athlete's constitutional protections and he was not subject to the same constitutional responsibilities as student-athletes. This eerily reflected the legal landscape after *Cruishank* and before *De Jonge v. Oregon*: a state employee was not bound to protect the constitutional rights of his charges. The negative space that had been closed by *De Jonge v. Oregon* was, in the minds of the justices, continuously open in the context of coach/student-athlete relations.

In order to legitimize Eaton's unique constitutional status, the university distorted the timeline in which the protest occurred and the facts themselves. First, the university's arguments misrepresented the student-athlete's initial inquiry to Eaton. As Joe Williams, captain of the team and the de facto leader of the Black 14 acknowledged, the athletes had not planned to protest during their meeting with Eaton, hoping that if Eaton rejected their proposal, he would discuss other avenues for self-expression: "We wanted to see if we could wear black armbands in the game, or black socks, or black X's on our helmets. And if he had said no we had already agreed that we would be willing to protest with nothing but our black skins."²³¹ President Carlson agreed, noting in his recollection that when he asked Joe Williams about this, Williams said that they had no intention of coming to Eaton to protest: "We decided to wear the armbands to his office. We did not think it would be a violation of his rules to wear them off the field. When we met him that morning, we were students."²³² Thus, the 14 athletes were not protesting to their knowledge and if Eaton had not unilaterally dismissed them, they likely would not have worn the armbands on the field against BYU. For the university, the implications were clear: all activities student-athletes participated in were seen as a reflection of the university.

For the university, the district court and the circuit court, consent played a major role in legitimizing Eaton's power over the protesting student-athletes and their hybrid student-

²³⁰ Williams V. Eaton, 310 F.Supp. 1342 (District Court of Wyoming, 1970) Motion To Dismiss; *Williams V Eaton*, "Brief For The Defendant," The United States Court Of Appeals For The Tenth Circuit, 1971.

²³¹ Pat Putnam, "No Defeats, Loads of Trouble," *Sports Illustrated*, November 3, 1969.

²³² Joe Williams, Quoted in William Carlson's testimony to the District Court, 1970, Accession Number 10405, Box 2, Folder 12, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming, American Heritage Center.

representative status. The administration argued that by protesting with knowledge of Eaton's rules, the players placed Eaton in a position in which he was forced to relieve the players of their scholarships, and in order to be reinstated, the players would have to accept Eaton's unilateral authority.²³³ Pointing to the players' compliance in signing their scholarships, the University argued the players were in no position to complain about rules they themselves approved of. The District Court agreed with the University's rationale. According to the District Court, the players consented to Eaton's methods, and therefore, they could not protest their conditions, regardless if the conditions changed after they signed their contracts:

"That the defendant Coach Lloyd Eaton's coaching rule prohibiting members of the University of Wyoming football team from participating in demonstrations and protests was well known and familiar to each of the fourteen plaintiffs as early as the spring football practice of 1969, during all of which time the fourteen plaintiffs, as members of the University of Wyoming football team, accepted certain athletic scholarship benefits to obtain their education from the University of Wyoming under circumstances whereby they agreed to play football for the University of Wyoming subject to certain rules and regulations, and that at no time or in anywise prior to October 17, 1969, did any of the fourteen plaintiffs object or protest or indicate their disapproval of the football coaching rule."²³⁴

The implications were clear: protest, and logically nearly any complaint, were delegitimized because student-athletes did not object to the terms before the contract was signed. Thus, in order to file a grievance using Court's logic would require student-athletes to have a futuristic vision of potential problems they might have with Eaton, and discuss them with the coach before they signed their scholarships. These stipulations virtually eliminated any legitimate complaint against the coach. The University's arguments about consent and representation combined, for at least one justice, to create an unassailable argument for coaches' authority over student-athletes, with no mechanism for review. As Justice Kerr stated, "I seriously doubt if this court has supervisory jurisdiction over a verbal directive issued by a football coach when issued undoubtedly for the best interest and welfare of the team. Any coach has certain inherent powers to discipline regulate training and other matters incidental to the general conduct of the team."²³⁵ For Justice Kerr, coaches' authority over student-athletes could transcend even constitutional protections.

Despite the university's efforts to direct the court's attention away from Eaton's actions, his rules violated established law throughout the 20th century, in both labor and student rights. If student-athletes had the enumerated rights of students, then Eaton's rules flagrantly violate the rationale of *Tinker*. In contrast to the "breathing space" the Warren court noted that First Amendment rights needed to survive, Eaton intended to suffocate the space needed for First Amendment protections. Anticipating this, the University attempted to shield itself from *Tinker*'s rationale by quoting Justice Fortas: "'But conduct by the student, in class or out of it, which for any reason--whether it stems from time, place, or type of behavior--materially disrupts classwork or involves substantial disorder or invasion of the rights of others (emphasis by the university) is, of course, not immunized by the constitutional guaranty of freedom of speech."²³⁶ Though the

²³³ C.E Hollen Interrogation, 1970 Accession Number 10405, Box 2, Folder 12, Irene L. Kuttunen Schubert Black 14 Collection, University of Wyoming, American Heritage Center

²³⁴ *Williams v. Eaton*, 310 F.Supp. 1342 (United States District Court of Wyoming, 1970), Motion to Dismiss.

²³⁵ *Brovo Herald*, "Court denies Reinstatement Order asked by 14 Black Wyoming Players, November 17, 1969

²³⁶ *Tinker V De Moines*, quoted in *Williams V Eaton*, "Brief For The Defendant," The United States Court Of Appeals For The Tenth Circuit, 1971.

University of Wyoming attempted to argue that the protest subsumed the First Amendment protections of other students, the university framed the protest as if it occurred at BYU, in front of other students. The student-athletes only met with Eaton before they were dismissed, and did not actively protest in front of an audience. As a result, the student-athletes could not have invaded the rights of others during their “protest.” The university thus relied upon distorting the timeline of the protest to protect itself from the rationale established in *Tinker*.

Because student-athletes were also thought of as labor, then the university’s arguments also fall subject to the rationale in *Keyishian* and *Pickering*. As the court argued in *Pickering*, one could not be deprived their constitutional rights in order to work as a public employee. The rationale in *Keyishian* also negates a critical claim that the university attempted to make: that when the Black athletes confronted Eaton initially, they were members of the Black Student Union. As the university claimed, “At the time the Plaintiffs confronted the defendant, Coach Lloyd Eaton, on the morning of October 16, 1969, each wearing said black armbands then as members of the Black Students Alliance, an organization at the university of Wyoming.”²³⁷ Yet, as the court articulated in *Keyishian*, mere association with an organization, even if the employee possessed knowledge of criminal intent of the organization, was not enough to terminate an employee. Though Eaton may have felt that the Black Student Union was a criminal organization, they did not participate in any criminal activity, and their protest was legal. Thus, the protesting student-athletes should not have been dismissed for guilt by association with the Black Student Union.

In every classification, Eaton’s reaction to the student-athlete’s protest violates the rationale established in *Cox*. Even if the student-athlete’s protest Eaton’s policies violated the First Amendment, Eaton’s reactions to this violation was clearly arbitrary; Eaton admitted to Hollen that he intentionally did not provide the dismissed athletes a chance to defend themselves. This arbitrate nature of Eaton’s decision simply did not occur in a vacuum; Eaton’s arbitrary came with the force of potential dismissal from the university. Eaton’s arbitrary dismissal also violated the University’s disciplinary policies. In the context of *Cox*, Eaton’s authority to dismiss student-athletes transcended university policy, a clear overreach of his authority. Yet, arbitrary decisions were a staple of college athletics: the negative space that separated the athletic department from the rest of the University made this hybrid form of student-labor relations possible. The inherent power of coaches thus meant that coaches’ power transcended constitutional, and university-wide boundaries.

Conclusion

The Wyoming 14’s sacrifice made national news. John Mooney, the editor of the sports section in the Salt Lake Tribune, noted that the 14 athletes in Wyoming paid the ultimate price for a pyrrhic victory: “For the bleeding hearts of the faculty, Wednesday was a big day since it meant the embarrassment of the Establishment and further indication of the power of the students. But what about the 14 athletes who have become the martyrs for the cause? The 14 at Wyoming, and others around the country, have been the only persons actually sacrificing something of value... in a few weeks, there will be new martyrs on new academic and athletic fronts and the 14 and others who were suckered into the game of racism will be nobody, forgotten friendless.”²³⁸

Though Mooney correctly noted that the 14 athletes at Wyoming were indeed martyrs for their cause, they were not anonymous, forgotten or friendless. The athletes inspired protests across the country against institutional racism, athletic autocracy and more freedoms for students broadly. Though their protests were not as famous as other student-led movements in the 1960s, they were

²³⁷ *Williams v. Eaton*, 310 F.Supp. 1342 (United States District Court, D. Wyoming, 1970), Motion to Dismiss.

²³⁸ John Mooney, “Blacks won Denver Victory but a Pyrrhic Victory,” *Salt Lake Tribune*, November 1969.

no less impactful. This protest revealed important fractures within the student-protest movement during the 1960s: student-athletes were not treated like the rest of the student-body. After the court ruled in their favor, The University of Wyoming later acknowledged that Eaton's policy of preventing protests was overbroad and modified it to prohibit protests during a players' designated time with the team. Yet, even after they modified his authority, Eaton could manage student-athletes under his charge like labor, including the ability to restrict, or even remove constitutional protections with the blessing of the university board of trustees, president, the governor of the state and the court system. For student-athletes, *Williams V Eaton* did not bring a new dawn of coach/student-athlete relations. Rather, negative space within the department would facilitate and legitimize some of college athletics' darker moments.

Chapter Four: Learning to “Live by the Rules”: The Syracuse 8, Student-Athlete Protest and Coaching as Labor Management, 1970-1971.

Introduction

In 1957, in an attempt to define football as a philosophy and an ideology, A.M Coleman, the Assistant Athletic Director at Georgia Tech University, argued that football intrinsically was American, with all the benefits of American exceptionalism, and none of its troublesome moral quandaries, “Football is an American way of life; just as American as “dogwood,” “Oklahoma!”, “chittlins,” “Cornbread,” “Huckleberry Finn” or “them lying politicians” ... It is democracy at work. It is the detonator that destroys social stratification. It is the boy from across the tracks playing alongside the boy from the silk socking district. It is a series of experiences which will result in the building of a good character and a good life. It is discipline, it is work, it is sacrifice, it is success, it is disappointment, it is perseverance.... It is learning how to “live by the rules.”²³⁹ Coleman finished by arguing that football was an integral part of American heritage and it was the responsibility of coaches everywhere to protect it from “termites-evil forces” that might corrode the sport.²⁴⁰ Sport, specifically football, was not simply a game, or even a national pastime. It represented the core of America: democracy, upward mobility, accountability, discipline, work and sacrifice.

In order to train student-athletes to inherit this uniquely American legacy, paradoxically, coaches argued for anti-democratic methods to train student athletes for participation in America’s democracy. We can see an example of this at Syracuse University in the 1960s. Black student-athlete protestors refused to participate in such an anti-democratic environment, adding protest to Coleman’s uniquely “American” story. Throughout 1970, nine Black football players, Gregory Allen, Richard Bulls, Dana Harrell, John Godbolt, John Lobon, Clarence “Bucky” McGill, A. Alif Muhammad (then known as Al Newton), Duane Walker, and Ron Womack, protested against racial inequality within the athletic department, arguing that the idealistic core of American football was corrupted by injustices committed by the coaching staff, and in particular, by their head coach, Ben Schwartzwalder. As a result, they boycotted spring practice in 1970, and continued their protest into the spring and fall semesters. The protesting Black athletes at Syracuse, mistakenly nicknamed the “Syracuse 8” protest covered an immense amount of ideological and practical territory. The Syracuse 8’s protested the dearth of black coaches on campus, the “double-standard of discipline” that informally existed within the athletic department based upon racist assumptions of black Americans, medical racism conducted by the team doctor and condoned by the athletic department, and a lack of academic advising for black players.²⁴¹ In sum, the Syracuse 8 protested against racism within the athletic department, the autocratic structure of the athletic department and thus the extraordinary and unjust power that Schwartzwalder and the athletic department wielded over them.

For their defiance, Schwartzwalder removed the protestors from the team, arguing that by boycotting spring practice, the protesting athletes had “given up” their spots on the team. Despite

²³⁹ What it is: Is Football,” written by A.M Coleman, RG 13, Box 7, Jan. 9, 1959, Floyd “Ben” Schwartzwalder papers, Special Collections Research Center, Syracuse University Libraries.

²⁴⁰ Ibid.

²⁴¹ David Wiggins, “Civil Rights and the Quest for Equality: The Year of Awakening,”133.

meetings with the newly-appointed Chancellor, John Corbally, the protesting athletes were unable to obtain any concessions from the Athletic Department. The Syracuse 8 attempted to appeal to an authority that transcended the Athletic Department: they filed an appeal to the Human Rights Commission in Syracuse. The Commission ruled in favor of the players, and in a surprising move, Corbally seemed to convince Schwartzwalder that he should reinstate the dismissed athletes to the team.

Schwartzwalder agreed, but nonetheless drafted a document designed to ensure the athletes' permanent removal from the team. In the document, he removed the student athletes' Fifth Amendment constitutional protection: the right against self-incrimination. In order to be reinstated to the team, Schwartzwalder stipulated that the athletes repudiate the Human Rights Commission's findings and admit guilt for their own dismissal. Additionally, the Black athletes would have to sign a loyalty pledge to the team, which, amongst other restrictive disciplinary policies, prevented any of the athletes from going outside of the athletic department for grievances. The Black athletes naturally refused these ultimatums, and as a result, the dismissed members of the Syracuse 8 never played for Syracuse again.

Schwartzwalder's refusal to reinstate the dismissed athletes meant that his power extended further than the protestors realized. The extent of his power might be best reflected in an extraordinary suggestion made by one of his supporters on how to treat and manage student-athlete protestors. On August 28, 1970, Adolph Uryniak wrote a letter to the Chancellor Corbally suggesting how the athletic department and the coaching staff should manage the intransigent black student-athlete protestors. In it, Uryniak did not simply express his displeasure with Syracuse's handling of student-athlete protest, though he certainly made his feelings known in this regard: "It appears as though you have allowed yourself to be intimidated by Mr. Pinkard in the name of the Human Rights Commission. It is my sincere hope that your capitulation does not rake the team with irreparable damage, in the form of destroyed morale. I suggest that you confine your activities to improving the academic side of my University and solicitation of funds from alumni, and let coach Schwartzwalder conduct the operation of the football team."²⁴² What made Uryniak's letter so extraordinary was neither his vociferous opposition to student-athlete protest, nor his unshakable faith in the coaches' authority. Rather, Uryniak argued that the authority of the coach should transcend local, and even state governmental regulations.

Though corporations often worked in tandem with local, state governments, and if necessary the federal government, to suppress labor protest, some corporations possessed enough authority to defy local and state regulations for a variety of different reasons: greater profits, less restrictive oversight, etc. Though their motive did not necessarily align with other corporations, Schwartzwalder and the athletic department defied local government regulations by using negative space to circumvent local and state governmental rulings and recommendations. This space allowed coaches and the athletic department to endorse policies that fit far better within a corporation than in a university. Though Schwartzwalder used this power liberally, he did not create the space surrounding the Athletic Department. Beginning in the 1930s, Syracuse's athletic department operated like a corporation and thus separated itself from the broader university. Stripping black student-athletes of governmental protections reflected student-athletes' status as a hybrid of labor and student and provided a means to discipline student athletes more punitively, a

²⁴² Letter to John Corbally, written by Adolph Uryniak, August 28, 1970; RG 13, Box 8, Chancellor John E Corbally Records, Special Collections Research Center, Syracuse University Libraries.

transformation that many suggested as a solution to the broader Black and student-led movements throughout the 1960s.

Though circumventing local rulings and regulations was the most egregious tactic used by Schwartzwalder, it was not the only tactic that negative space afforded to the coaching staff and the Athletic Department. It proved flexible enough to contort around a myriad of techniques that Schwartzwalder used to break the protest. Schwartzwalder, like many employers, broke up labor protests by using race a cudgel that separated which athlete obtained benefits. In accordance to his racial quota, Schwartzwalder leveraged playing time as a form of concession, offering it to student-athlete protestors that voluntarily returned to the team. These Black athletes, according to the complaint filed, were not offered equitable opportunity; therefore, Schwartzwalder did not offer Black players tangible benefits that were usually offered to white players. Finally, Schwartzwalder prevented student-athletes from approaching him as a group, another key similarity between his policies and policies enacted by employers to nullify protest. These were all policies that employers used to manage labor protests.

Many observers believed that student-athletes should be treated more like labor than to students. In a letter to the Chancellor, C.W Webb argued that Corbally and Schwartzwalder needed to take advantage of this outsized power to manage protesting student athletes; ultimately, to him, wielding power successfully was the ultimate litmus test for an administrator, “Seriously, whatever you do, don’t make the mistake of becoming limp-wristed and ineffective. Every institution has to have a boss, and he has to say ‘yes’ and say ‘no’ when it becomes necessary; otherwise, he is not worthy of the title administrator.”²⁴³ Schwartzwalder and the Athletic Department at large agreed: student-athletes required strict, sometimes harsh management from their bosses in order to become successful American laborers and citizens, or else they were not worthy of the title of coach.

The Winds of Protest: Student-Athlete Protest in 1968-69

The conditions for protest existed throughout 1969 and crested in 1970. These demands were birthed from a broader pool of racism within Syracuse’s Athletic Department; this might seem surprising in the context of Syracuse’s history. Syracuse was founded as a staunchly integrationist college; in his inaugural speech to the faculty in 1870, Rev. Dr. Jesse T. Peck, founding chair of the Syracuse University Board of Trustees, argued that the faculty must accept the principles of the Fourteenth Amendment in its entirety: “The laws under which you will do your work say, ‘the conditions of admission shall be equal to all persons . . . there shall be no invidious discriminations here against woman or persons of any nation or color.’”²⁴⁴ In 1880, roughly a decade after the university was founded, the alumni base was overwhelmingly white and male, but also included African American men and women. Perhaps most prominently in the Nineteenth century, Dr. Sarah Loguen Fraser, the fourth African American woman to become a physician in the United States, was a graduate of Syracuse University in 1876.²⁴⁵

²⁴³ Letter to John Corbally, written by C.W Webb, August 22, 1970; RG 13 Box 8, Chancellor John E Corbally Records, Special Collections Research Center, Syracuse University Libraries.

²⁴⁴ “Equals to All persons: Minorities in SU’s History,” Syracuse University Archives exhibition description, September 2005, <http://archives.syr.edu/exhibits/equal.html>.

²⁴⁵ Marc David, “A Context for Action,” in *Leveling the Playing Field: The Story of the Syracuse 8* (New York: Syracuse University Press, 2015), 10.

In the context of integration and athletics in the mid-twentieth century, Schwartzwalder also seemed like an unlikely adversary for black student-athletes. Schwartzwalder's tenure with the university lasted from 1949 to 1973, and he was considered a racial trailblazer during the 1950s.²⁴⁶ In the 1950s, three black quarterbacks played in Division 1 NCAA football and Schwartzwalder employed two of them. Many NFL legends, including Jim Brown, Ernie Davis, Floyd Little and Jim Nance, played at Syracuse. In comparison to southern schools, and even many northern programs, Syracuse was a radically progressive university; Schwartzwalder's quota system allowed more than a handful of African American players to play.

However, he wasn't liberal regarding how he thought about Black people and blackness as a whole. Schwartzwalder, hired in the 1940s, still employed a racial quota system in the 1960s, when many programs were in the process of integrating their teams. His most famous player, Jim Brown, who is generally regarded as the greatest athlete in Syracuse's history, was a player Schwartzwalder initially refused to recruit, stating to a staff member: "Not interested. He's colored."²⁴⁷ Far from liberalizing the Athletic Department, by the 1960s, Schwartzwalder's policies hampered integration efforts and undermined support that Black athletes needed to succeed academically and athletically. Though Syracuse claimed to protect students from harm, the institution did not extend its protections within the negative space of the Athletic Department.

Two major flashpoints jumpstarted the Syracuse 8's protest: Schwartzwalder's failure to hire a Black assistant coach in 1968, and his treatment of Dana, "DJ" Harold after an altercation with white student-athletes in 1969. In Harrell's recollection, some white football players were playing with a garden hose after practice; they decided to aim the hose at Harrell, and he asked them to stop.²⁴⁸ The incident escalated when one of the white players walked up to Harrell and sprayed him directly in the face: "The nozzle was maybe two inches from my face," Harrell recalled.²⁴⁹ More importantly to Harold, Schwartzwalder disciplined him, lecturing Harrell about the values of teamwork and camaraderie while not addressing the altercation with the white members of the football team at all, and completely ignored the sequence of events. White players not only instigated the conflict, but also accelerated the conflict according to Harrell. Schwartzwalder's one-sided response, predictably, caused an explosive fracture centered around race, and the authority of the coach over the bodies of athletes, "The split—whether I was right or wrong or they were right or wrong—played out along racial lines,"²⁵⁰ Harrell recollected. Thus, Black bodily autonomy, a key part of the Radical Black Movement, was contested by both white student-athletes and Schwartzwalder himself.

Perhaps Harrell's complaints would have been taken more seriously by a Black coach. Throughout 1968 and into 1969, Schwartzwalder promised Black football players that he would hire a Black coach and simply refused to do so. In line with the Radical Black Movement, Black student-athletes argued vociferously for Black coaches throughout the late 1960s. Partially as a result of the lack of a Black coach, Black football players teamed with the Black Student Union

²⁴⁶ Ibid., 10.

²⁴⁷ Marc David, "The Rise of Syracuse Football," in *Leveling the Playing Field: The Story of the Syracuse 8*, (New York: Syracuse University Press, 2015), 74.

²⁴⁸ Ibid., 74.

²⁴⁹ Dana Harrell, Oral Interview, in Marc David, *Leveling the Playing Field: The Story of the Syracuse 8*, (Syracuse, New York: Syracuse University Press, 2015).

²⁵⁰ Ibid.

and other student groups to protest at a basketball game in February, 1969. On February 20, 1969, roughly one hundred protesters, including Black football players in attendance, engaged in silent, peaceful protest and remained seated during the playing of the national anthem before tip-off, their fists clenched patriotically in the “Black Power” salute.²⁵¹ After the game, student organizers released the following statement: “This demonstration is in protest of the racist attitudes existing in Syracuse University, as well as in the community, that affect blacks of Syracuse, as recently exemplified by the treatment of black students and athletes. If this reflects any disrespect to the national anthem or the country, it is minor when compared to the blatant disrespect shown to the blacks in this country. We stand united as black students.”²⁵²

Despite this protest and pressures from Harrell and other Black athletes, Schwartzwalder refused to hire a black assistant coach or discuss Harrell’s altercation with other white football players. As a result, Harrell decided to file a complaint with the city of Syracuse’s Human Rights Commission. This complaint would not be the last complaint filed with this Commission by Black athletes, and Schwartzwalder’s defense here mirrored his defense later on in 1970. Both times he said that he would eventually hire a Black assistant coach, but on his timeline, not on one imposed upon him by protesting Black athletes. As John Robert Greene notes in his account of the “Football Discrimination Crisis,” Schwartzwalder did promise to hire a black coach as a result of Harrell’s complaint, “In mid-1968, in the presence of a number of reputable witnesses, Schwartzwalder told a Human Rights Commission investigator [responding to Harrell’s complaint] that he ‘would get a black coach right away.’”²⁵³ Yet, Schwartzwalder framed his statement to the Human Rights Commission as a rhetorical act, not an act of policy. When asked about his promise during the subsequent investigation, Schwartzwalder said he had meant the comment sarcastically.²⁵⁴ When spring practice commenced on Wednesday, April 8, 1970, and the black coach who had been promised in 1968 was nowhere to be seen, the Black athletes on the football team took collective action to remedy the situation.

On April 13th, ten of the eleven African Americans in the Syracuse football program signed their names to a document that contained four complaints against Schwartzwalder and the Athletic Department:

1. Schwartzwalder and the athletic department prevented black players from achieving their academic potential and restricted their academic advisement.
2. Schwartzwalder established quotas that limited black participation on the team.
3. Schwartzwalder failed to hire a black assistant coach as promised.
4. The athletic department allowed poor medical care, especially in sports-related injuries for Black athletes.

The players’ demanded the same level of academic support routinely offered to other students at the university, including white members of the football team. Yet, they also expose the department’s powerful negative space. Schwartzwalder’ power extended into student athletes’ academic lives, and this control reflected racial considerations. He refused to provide tutors for

²⁵¹ Daily Orange, February 28, 1969.

²⁵² Ibid.

²⁵³ John Robert Greene, “Football Discrimination Crisis,” in *Syracuse University, Vol. 5: The Eggers Years, 1969-1991* (v. 5), (Syracuse, New York: Syracuse University Press, 1998).

²⁵⁴ Ibid.

African American players, restricted their possible majors and classes and he student athletes protested for control over their academic future.

Their most urgent request was ending the practice of assigning them assistant football coaches as academic advisors rather than faculty members from their chosen fields of study and recommending classes that might have been useful for understanding sport but little else. As Alif Muhammed recalled, “The courses they had us take, such as ‘Techniques of Football’ and ‘Theories of Basketball,’ were good for one thing only: they kept you eligible to play for the team. But they were worthless when it came to graduating.”²⁵⁵ Clarence McGill recalled the difficulty he had in even registering for classes in something other than what Schwartzwalder deigned for him:

“Believe it or not, here’s what I had to do in college in order to make sure that I was keeping up with the requirements to graduate in my major: I would print the courses in pencil that I was told to take by the coach on a form that the coach, as my “academic advisor,” had to sign. After getting his signature, I would erase these courses and fill in the courses my major required in ink, and then turn the form in at the registrar’s office. During my sophomore year, after officially declaring as a history major, the courses required by my major were set automatically and the advisor could not alter the form to make me register for irrelevant courses.”²⁵⁶

Thus, Schwartzwalder’s power extended past the department and into the Registrar’s office; he was all of the student athletes’ academic advisor and even required some players to major in physical education.²⁵⁷ The implication of refusing these “suggestions” was a severe restriction, or elimination of a player’s playing time, and in some cases, removal from the team.

Schwartzwalder imposed his dictatorial power upon any African American player who even questioned his decisions. A perfect example of this was the treatment of Ronald J. Womack. As a high school athlete, he was recruited with prior knowledge of an undisclosed medical condition. However, after he inquired with Schwartzwalder about cuts to his playing time, Schwartzwalder not only labeled him a “radical” and a “troublemaker,” but he used Womack’s medical condition that had been diagnosed before he played for Syracuse to declare him medically ineligible to play football.²⁵⁸ In his statement to the media, Schwartzwalder argued that he prevented Womack from playing for his own protection. Crucially, these exercises of power were not questioned by the administration. Schwartzwalder did not report to the Chancellor, nor to the Board of Directors about his activities. Syracuse did not require him to. By restricting black players before the protest began, Schwartzwalder possessed and exercised powers similar to those possessed and exercised by employers.

An Autonomous Entity: Teaching Sport, Training Labor, 1930-1970

²⁵⁵ Alif Muhammed, quoted in Marc David, “Interviews: Clarence “Bucky” McGill,” in *Leveling the Playing Field: The Story of the Syracuse 8*, (Syracuse, New York: Syracuse University Press, 2015).

²⁵⁶ Clarence “Bucky” McGill, quoted in Marc David, “Interviews: Clarence “Bucky” McGill,” *Leveling the Playing Field: The Story of the Syracuse 8* (Syracuse, New York: Syracuse University Press, 2015), 235.

²⁵⁷ *Ibid.*, p.177.

²⁵⁸ Ronald J. Womack, quoted in Marc David, “Interviews: Ronald J. Womack,” 206.

The protesting athletes' demands exposed deep contradiction in the ideology of amateurism. College coaches claimed to instill democratic values and dedication to workplace within their players, but coaches and athletic departments were not accountable to their players or to the university administration. At Syracuse, this particular way of management had deep ideological and pragmatic roots stemming from how their athletic department actively mirrored a corporation beginning in the early twentieth century. Here, the athletic department carved out negative space, seemingly without the knowledge of the university administration. By separating itself from the university administration while claiming near unilateral authority over student athletes, Syracuse's Athletic Department carved out a space in which they possessed exceptional authority with very little oversight.

The Athletic Department was ran like a corporation as early as 1924. In 1924, George Thurston, a manager for graduate services who often worked with the Athletic Department, noted that the executive committee of the Board of Trustees arranged for a 5,000 dollar loan for various purposes without approval from other parts of the University, a demonstration of its financial power and autonomy.²⁵⁹ Later on in October, Thurston took a substantial loan for the Athletic Department without obtaining permission from the administration, writing to the Chancellor to approve the loan with the credit of the university, "Since Mr. Cook and myself have already made tentative arrangements for a loan, I feel that this will be a happy solution to the situation."²⁶⁰

Many high-ranking administrators in the university administration also recognized that the Athletic Department mirrored a corporation in form and function. In a three-page letter to the chancellor, W.P Graham, the vice chancellor in 1927, excoriated the Athletic Department for failing in its financial responsibilities, unwittingly noting that the department operated like a near autonomous entity that obtained financial subsidies like corporations often did: "They will maintain that the Athletic Governing Board is not responsible for alterations, for repairs to structural defects, nor for new construction, even though the welfare of Syracuse athletics may be involved in those changes. They do not feel any obligation to raise funds, nor economize in the expenditure of funds... They consider the athletic program to be of much value to the university that if it cannot be carried on with the funds available, additional funds must and will be provided."²⁶¹

He also noted that, as a result of its relative isolation from the rest of the university, the Athletic Department had immense authority with little to no oversight. "The football committee appears to be helpless and the finance committee has not felt that it could override the football committee. For years, no question of athletic policy has been submitted to the Association, nor could it receive intelligent consideration if it were submitted. The athletic Governing Board is a

²⁵⁹ Minutes of a meeting of the executive committee of the athletic governing board, recorded by George Thurston, July 7, 1924 RG 01.FLI.001, Chancellor Charles W. Flint Records, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁶⁰ Letter to Charles Flint, written by George Thurston, May 6, 1934, RG 01.FLI.001, Chancellor Charles W. Flint Records, Chancellor Charles W. Flint Records, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁶¹ Letter to Charles Flint, written by W.P Graham, November 30, 1927, RG 01.FLI.001, Chancellor Charles W. Flint Records, Chancellor Charles W. Flint Records, University Archives, Special Collections Research Center, Syracuse University Libraries.

‘packed’ organization, which arrogates to itself full power in all intercollegiate relations, subject only to the veto of the chancellor.”²⁶²

Though Graham disagreed with the immense authority that the Athletic Department wielded in the context of university administration, he did not disagree with the extraordinary authority that coaches had over student athletes. Terrified of the prospect that student-athletes were paid by outside forces without university approval, he, along with the university bureaucracy created extra nodes of surveillance over student-athletes that functioned similarly to surveillance mechanisms that managers used over labor in the early twentieth century. For example, in order to confirm that student-athletes were in fact students and not “athletic tramps,” Graham asked faculty members, deans and directors for the academic records of athletes, records that should theoretically be confidential.²⁶³ Graham’s assertions were bolstered by Chancellor Charles Flint, who argued that the university should control student athlete’s ability to move to other universities. In a report to the Board of Trustees in 1933, Flint officially banned student athlete transfers to any reasons: if a student athlete played a sport at his initial institution, he could not play that sport at Syracuse. “Syracuse is proud of the pioneer step by the Athletic Governing Board in 1933 in making a transfer student, who had played in a major sport elsewhere, ineligible for intercollegiate competition in that sport at Syracuse throughout his whole course. At one stroke, all temptation to or suspicion of proselyting was absolutely eliminated.”²⁶⁴

Additionally, in 1924, in a letter to the Athletic Department, Graham reflected the rationale for why coaches and university athletic departments had such extraordinary authority over student athletes: to teach young men moral lessons that they would need in the workplace, even if these lessons were inequitable for ~~to~~ student athletes. When he learned that Montgomery Chapman, a student athlete admitted in 1924, lied about being a student at Dartmouth for a year on his application to Syracuse, he argued that he should be removed from the university entirely for the transgression. “We have learned that Mr. Chapman was a student at Dartmouth for something over a year and was dropped for deficient scholarship. In his application for admission, in reply to the question “have you ever been in attendance at any other college or university?”, His reply was ‘No.’ We feel therefore that it is necessary for him to at once sever his connection with the University.”²⁶⁵ Normal students were not automatically discharged for this particular offense.

Chancellor Flint also argued that sports were an ideal training ground for future laborers. He argued that sport’s physical and disciplinary training complemented the mental training that universities provided students, thus preparing students for a lifetime of work. “Physical exercise as a complement to intellectual effort, the sound body for the sane mind, is but a part of the whole story. More and more we are learning that real educational values and significant contributions to

²⁶² Ibid.

²⁶³ Letter to William Bray, written by W.P Graham, February 20, 1924, Box five, RG 01.FLI.001, RG 01.FLI.001, Chancellor Charles W. Flint Records, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁶⁴ Steps leading up to Reorganization,” Written by Charles Flint, The Chancellor’s Report to the Trustees on Athletics, June 25, 1934, Box Five, RG 01.FLI.001, RG 01.FLI.001, Chancellor Charles W. Flint Records, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁶⁵ Letter to William Bray, Written by W.P Graham, February 20, 1924, Box Five, RG 01.FLI.001, RG 01.FLI.001, Chancellor Charles W. Flint Records, University Archives, Special Collections Research Center, Syracuse University Libraries.

personality-development may be found in the sports program.”²⁶⁶ Schwartzwalder’s dismissal of student athlete protestors was thus grounded in historical continuities with how student athletes were treated and managed throughout the twentieth century.

Disciplinary policies in the 1960s had much in common with their 1920s and 1930s counterparts. One of the most important and pertinent voices of student athlete management during the era of student protest was Chancellor William Tolley. Tolley, who was replaced by Corbally in 1969, was a well-known “hard-liner”; he argued that order on campus was of paramount importance. Most notably, Tolley took pride in handling a “rebellion” from Jim Brown, the most famous athlete in Syracuse history and a national icon: “I maintained order by treating each student rebellion as I had Jim Brown’s rebellion. When Jim was a student at Syracuse, he was on a work study program. For several days before the Syracuse-Penn State game, however, Jim did not report to work. When his supervisor asked my advice, I told him to revoke Jim’s food card. He’s just trying to see how far he can go. Jim made up for lost time and showed up for work after that.”²⁶⁷ Thus, in order to train student athletes into more pliant labor, the department could even manage or restrict student athletes’ basic needs like food. Similarly to Schwartzwalder in 1969, neither Tolley nor the assistant coach in question made any inquiry about Brown’s complaints.

Tolley’s arguments that coaches should have virtually absolute authority over their program stemmed from his view that sport played an integral role in the training of an American citizen, and worker.

“To see football and other sports in better perspective, I should like to raise some different questions. What is the place of discipline in American education? What is the relationship of the individual to the larger units of society? And do sports contribute to the search for courage, endurance, honesty and self-respect? My third question is, What is the relationship of the individual to the larger units of society? Nothing however, teaches the importance of teamwork like athletics. The subordination of the individual to the team is an experience I wish all students could have. The boy who obeys instruction, who listens and learns, who gives his best effort in any position to which he is assigned and who hangs in there every day of the week regardless of how much he plays on Saturday, this is the boy who finds out what life is all about.”²⁶⁸

Tolley was not the only high-ranking official who argued for the Athletic Department’s autonomy. In 1967, the chairman of the American Football Coaches Association, Dan Jesse, eloquently argued that coaches should not be accountable in any way to student-athletes: coaches were instructors in moral, labor and epistemological guidance for student-athletes. “The basic purpose of football is also the broad purpose of education- to teach the man how to win, how to work with his fellow man, and how to make his contribution to the welfare of his country.”²⁶⁹

²⁶⁶ Charles Flint, The Chancellor’s Ideas on Athletics, *The Chancellor’s Report to the Trustees on Athletics*, June 25, 1934, Box five, RG 01.FLI.001, RG 01.FLI.001, Chancellor Charles W. Flint Records, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁶⁷ William Tolley, “Student Unrest in the 1960s,” in *At the Fountain of Youth*, (Syracuse, New York: Syracuse University Press, 1988), 164.

²⁶⁸ Dr. William Tolley, “Address to the American Football Coaches Association,” *Proceedings of the 45th annual meeting of the American Football Coaches Association*, Jan. 1968.

²⁶⁹ Dan Jesse, *Proceedings of the 44th Annual Meeting*, American Football Coaches Association, Jan. 1967.

Schwartzwalder agreed with Tolley and Jesse, stating that the primary purpose of football, and sports at large, was to teach student athletes how to work properly and that coaches should not be accountable to student athletes at all. In the 1968 opening address to the American Football Coaches Association, Schwartzwalder argued that football not only is an integral part of American education, it uniquely taught student athletes how to conduct themselves in the workplace because it taught student athletes how to sacrifice for a greater purpose. “In the game of football, an individual is competing as a representative of the institution to which he belongs. This makes a world of difference. He is not a free agent merely representing himself; he has the responsibility of representing his team and his school to the best of his ability in skill and sportsmanship.”²⁷⁰ In a similar vein to Wyoming’s Athletic Department, student athletes were representatives of the university to Schwartzwalder, and this representation played an important role in teaching student athletes how to sacrifice their individuality to authority figures. He elaborated further. “This subordination of individual responsibility is a factor of prime importance in football and in our American way of life.”²⁷¹ Thus, subordinating individual concerns for the benefit of the collective was of prime importance to Schwartzwalder, which contrasted with the Black athletes’ demands. To Schwartzwalder, the Syracuse 8 was unwilling to sacrifice their own individual autonomy for the benefits of the collective, something that made them unworthy of a spot on the team.

David Marc, a cultural theorist, argues that though predominantly white institutions during the 1960s increased their recruitment of Black athletes, they often felt these Black athletes should be overly grateful for the opportunity to play for the institutions, and therefore did not register complaints Black athletes often made about the culture of the institutions.²⁷² To Schwartzwalder, Chancellor Tolley and the Athletic Department, subordinating the individual to authority figures applied even when their treatment was inequitable. After all, to Tolley, the boy who dutifully followed orders discovered life’s true purpose.

Division by Necessity: Suppressing Student Athlete Protest at Syracuse

Schwartzwalder used the department’s outsized power to break the protest in various ~~a variety of different~~ ways that were similar to how managers suppressed complaints from laborers. Though he had the power to govern autocratically, Schwartzwalder initially attempted what I call a pseudo-concession by hiring a volunteer Black assistant coach. In a demonstration in how strong and flexible negative space could be, Schwartzwalder attempted to dismiss some protesting athletes, and retain others while accusing all protesting athletes of the same charge. Thus, Schwartzwalder possessed unilateral control over dismissal, staffing, and other areas of student athlete management within the negative space provided by the Athletic Department.

Unlike his fellow autocrat Lloyd Eaton, Schwartzwalder did not immediately dismiss the protesting athletes. Instead, Schwartzwalder attempted to obscure dismissing the majority of the Syracuse 8 by providing a semblance of reform. Though Schwartzwalder did not attempt to answer, let alone consider, the vast majority of the Black athletes’ demands, he seemingly considered one of their demands in particular. In a move that shocked the Black athletes, Schwartzwalder seemingly relented to one of the athlete’s demands, and promised to hire a Black

²⁷⁰ Floyd “Ben” Schwartzwalder, “Address to the American Football Coaches Association,” *Proceedings of the 45th annual meeting of the American Football Coaches Association*, Jan. 1968.

²⁷¹ Ibid.

²⁷² Ibid.

assistant coach for spring practice in 1970, and a permanent Black coach in the fall of 1970. For spring practice, he asked Greg Little, a former Syracuse player, to fill this vacant position for him. Though this move may have seemed surprising, Schwartzwalder's concession was a false one: it served as a screen that reinforced the negative space that the Athletic Department operated within.

Though Schwartzwalder said he'd hire a new Black coach, he did not hire Little. Little was a volunteer, further perpetuating the power inequities between the Black student athletes and Schwartzwalder. Little could not truly advocate for Black athletes, as student athletes or Black people because of this precarious position. In conjunction with Little's loyalty, Schwartzwalder was able to claim that he fulfilled the athlete's demands. To add insult to injury, Schwartzwalder tasked Little with "inspiring" the African American players to work harder during spring practice, a message that reflected racial realities to the Black students: their Blackness was seen by those like Schwartzwalder as a threat to their ability to work. Little was openly antagonistic towards African American players, with Schwartzwalder's tacit approval. Little played the role of a foreman: he did not actively advocate for the African American players. Gregory Allen noted that Little seemed like an extension of Schwartzwalder's power:

"Floyd pulled me aside in the locker room and told me he wanted to talk to me. I sat down with him and he told me that the coaches thought I really had promise, but that I needed to be careful about who I was hanging around with. He said they were concerned about me getting too involved in campus politics and all the 'black stuff.' He told me he was just 'passing along the message,' adding that I shouldn't miss out on the opportunity that Syracuse was giving me."²⁷³

In fact, Little's appointment was an imposition onto the players, a way of exercising further control by Schwartzwalder over their off-the-field choices. Making matters worse for the players, Little belittled the players' effort and attitude to the media with Schwartzwalder's approval and without the players' knowledge.²⁷⁴ Little's, and by extension Schwartzwalder's, message proved extraordinarily ineffective. After three days, the Syracuse 8 walked out of spring practice protesting Little's hiring. By walking out of practice, to Schwartzwalder the Syracuse 8 vacated their position on the team, and he dismissed them accordingly.

Hiring a Black assistant coach, Florida A&M's Carlmon Jones, for the fall semester helped provide a smokescreen for Schwartzwalder's decision to unilaterally dismiss many members of the Syracuse 8 for protesting Little's hiring. On July 25, 1970, the Syracuse *Post-Standard* reported in "SU Names First Negro Grid Aide" one result of Schwartzwalder's hiring Jones, and simultaneously revealed racial progress and its limitations.²⁷⁵ Similarly to Little, Jones' hiring represented the strength of Schwartzwalder's authority within the Athletic Department, and more crucially, the insulation that negative space provided Schwartzwalder and the Athletic Department from university oversight. The term "Grid Aide" was not an incidental one. It vividly reflected Jones' lack of official position and Schwartzwalder's authority to prevent Jones from obtaining an official position. Though Jones brought both knowledge and experience, at the age of twenty-three,

²⁷³ Gregory Allen, quoted in David Wiggins, "Interviews: Gregory Allen," in *Leveling the Playing Field: The Story of the Syracuse 8* (New York: Syracuse University Press, 2015), 173.

²⁷⁴ *Ibid.*, 175.

²⁷⁵ Editors of the Syracuse Post, *Syracuse Post-Standard*, July 25th, 1970.

most of the players believed he was hired because he could not challenge Schwartzwalder's seniority. Alif Muhammad believed that Schwartzwalder chose him more for what he wouldn't do than for any of his capabilities, stating that "I'll never forget peeking in on a coaches' meeting. It was a very intense session. There were all these X's and 0's going on [at the blackboard] and all this intense discussion. And there's Carlmon, sitting by himself in the back of the room. I remember thinking, 'I sacrificed—and this is what I got?'"²⁷⁶

Jones' hiring had other tangential benefits for Schwartzwalder. For one thing, it helped temporarily remove the Chancellor's influence from the football team. Chancellor Corbally, appointed in 1969, attempted to assert some form of oversight over the Athletic Department, largely as a response to the Black athletes' list of demands. Unlike Tolley, Corbally was not a hardliner on the topic of student protest. Corbally eloquently argued that students not only possessed several types of rights that were often infringed upon by universities, but also concluded by defining student-rights in a positive and negative fashion.²⁷⁷ To him, students were not simply accorded specific rights by being in a university space, a process he defined as positive rights, but they were also afforded protections from negative factors as well. "The student has the right to be provided by his university with the resources, the intellectual climate, and the supporting facilities to permit him to maximize his learning experiences during his college years. Not only does he have the right to expect these positive contributions, he should also expect the absence of negative factors. If one, for example, is provided with a good room in which to live and to study but is also asked to be responsible for a whole series of maintenance activities related to the room and to the building in which it is located, the negative aspects of the latter factor may override the positive aspects of the former."²⁷⁸

Corbally argued that Syracuse, in theory, wanted to provide student athletes with the protections of the university while shielding them from as many negative aspects as possible. Corbally would prove, at least initially, an extremely valuable ally for the protesting athletes. Not only did he pressure Schwartzwalder to hire a Black assistant coach, but he also ordered Schwartzwalder to solve the crisis by reinstating the protesting athletes.

However, Schwartzwalder fooled both the protesting Black athletes and Chancellor Corbally. Without the chancellor's knowledge or approval, Schwartzwalder decided these players were to be removed for their actions and attempted to remove them in two ways. First, he provided extremely restrictive stipulations for the protesting athletes he'd wanted to retain. Second, he simply rejected the Chancellor's order for athletes he did not want to keep.²⁷⁹ To Schwartzwalder, those who boycotted spring practice had "voluntarily withdrawn" from the Syracuse football program, "voluntary withdrawal" legitimized removing whomever he saw fit. Keeping with his benevolent public persona, Schwartzwalder stated that any who wished to discuss a change in that status could do so by making an appointment to meet one-on-one with the coach before a deadline

²⁷⁶ Alif Muhammad, oral interview in in Marc, *Leveling the Playing Field: The Story of the Syracuse 8*.

²⁷⁷ Chancellor Corbally, "Rights," Student Rights and Responsibilities-A President's viewpoint, Chancellor John E Corbally Records, RGOD. COR.001, Box 38, 1970, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁷⁸ Ibid.

²⁷⁹ David Marc, "End of an Error," *Leveling the Playing Field: The Story of the Syracuse 8* (New York: Syracuse University Press, 2015), 103.

of August 1, 1970.²⁸⁰ However, according to every member of the Syracuse 8, these notifications were never sent to them. Thus, they were removed from the team without an appeals mechanism. Schwartzwalder claimed that none of the athletes wanted to meet with him, and as a result, removed themselves from the team. On their end, seven boycotting players discovered their permanent expulsion from the team after they discovered that Gregory Allen and Robin Griffin, two of their protesting brethren, were invited to fall practice in August 1970.

Schwartzwalder also framed these terms as vital to teach athletes moral responsibility for their own decisions. Most prominently, Schwartzwalder, in line with Eaton and other coaches across the country, claimed that the black protesting athletes must have been manipulated by outside forces, and did not want to actually protest. Consequently, in order to understand the consequences of their actions, they required the grizzled head coaches' guidance. In the letters Schwartzwalder mailed to Allen and Griffin, he included conditions that they renounce ties to the boycotting players, and swear an oath of loyalty to him in an attempt to overtly control their actions.²⁸¹ Schwartzwalder's statement to the media on why he dismissed some players but not others employed classic strategies of paternalism: "these players were reinstated because, in my judgment, and that of the staff, their spring action was based on duress."²⁸² Hence, Schwartzwalder's not only "saved" some of the protesting Black athletes from their decisions, he simultaneously saved the rest of the team from these misguided athletes.

Schwartzwalder, The Human Rights Commission Student-Athlete Protest, 1970

Though Schwartzwalder seemingly "saved" at least some of the protesting athletes from themselves, this sentiment was not necessarily shared by Chancellor Corbally, The Human Rights Commission in Syracuse, and most importantly, by the athletes themselves. The athletes, led by Al Newton, decided to file another complaint with the Syracuse Branch of the Human Rights Commission in July 1970. Their complaints fit snugly into the context of the Civil Rights Movement and the nascent Black Power Movement. In essence, their demands reflected Black students' desire for dignity, respect and power within university spaces. Their demands also fit snugly within the context of employer/employee relations in the early to mid-twentieth century. Similarly to employees who resisted increasingly arbitrary treatment from management, and in the context of black workers, racist abuse from employers, Newton's arguments reflected a desire to dramatically restructure and remodel the experiences of student-athletes in the workplace. According to Newton, Black student athletes were not simply restricted from playing certain positions, they were actively shifted into positions in which they had no experience playing during the week, which prevented them from playing on Saturday.

Though coaches' management of student-athletes does not traditionally fit within historians' ideas about labor management, Schwartzwalder's power to shift and slide Black athletes into different positions within an extremely expedited time frame fit well within how early twentieth century managers attempted to shift, hire and ultimately fire workers with little to no recourse. However, Schwartzwalder's interactions with the protesting Black athletes demonstrate negative spaces' flexibility, and in turn, his interactions with the Human Rights Commission help

²⁸⁰ Ibid., 109.

²⁸¹ David Marc, "End of an Error," in *Leveling the Playing Field: The Story of the Syracuse 8*, 126.

²⁸² Ibid., 111.

demonstrate its strength. Not even the Human Rights Commission could extend its tendrils into the space of the Athletic Department.

The Syracuse 9 soon filed a report with the State of New York's Division of Human Rights. Al Newton, a protesting player, argued that Schwartzwalder violated student-athletes human rights in four distinct ways. First, he provided preferential treatment to white players. Second, he prevented Black athletes from expressing their individual identities, in particular by refusing to reintegrate them into the team as a result of their desire to express their identity. Third, he refused to hire a Black coach. And fourth, he violated his obligation to serve the best interests of Black student athletes:

1. Preferential treatment for White Players: 'upon information and belief, the procedure is for an upperclassman with the most experience to be given priority for an open position. Black players are placed in accordance with this policy. White freshman players, however, have moved into varsity slots without any experience as a varsity player.'²⁸³
 - a. 'The lack of disciplinary procedures caused the coaching staff, which we believe to be discriminatory and racist, to act arbitrarily on disciplinary issues. Black players have been given more severe penalties for less severe acts than whites.'²⁸⁴
2. Furthermore, when the traveling squad list was posted, black players would be shifted from their regular position to one with which they were unfamiliar on Thursday, the day that the list was posted. Thus, they could not be on the traveling squad, which consists of the first two men for each position. On Monday after a road game, they would be shifted back to their original position. On information and belief, this did not happen to white players.
3. On different occasions, black players have been subjected to derogatory comments by players and coaches. This has been brought to the attention of the head coach and administration without anything being done.
4. On different occasions, the hiring of a black coach was promised by the Athletic Department, we do not feel that these promises were made in good faith as the University did not actively seek out applicants and at least in one instance, did not follow through on one applicant. Finally, after bringing the matter to higher administrative personnel and a boycott, a black coach was hired. We feel that had white players requested a change or addition to the staff, the matter would have been given prompt and serious attention.
5. As a result of our efforts to protect our human and civil rights, as well as our dignity, we have been told that we 'cannot re-join the team under any circumstances. We feel that had white players attempted to protect their rights, they would be permitted to return to the team.'²⁸⁵

²⁸³ Al Newton Jr, Complaint to the State of New York Division of Human Rights for unlawful discriminatory practice relating to education, complaint no. V-C-E-688-70, September 3, 1970, RG 13, Box 3, Personal Papers Personal Papers-Football Strike, 1970, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁸⁴ Ibid.

²⁸⁵ Ibid.

By filing a complaint against Schwartzwalder, Newton challenged the sanctity of the negative space that Schwartzwalder used to oppress them. Using Schwartzwalder's words against him, Newton advocated that he, alongside other Black student-athletes did have rights within the Athletic Department's negative space. "Ben Schwartzwalder said to several black players 'Be a football player first and a Negro, Black or whatever you want to be second.' I do not feel that as blacks we should be expected to ignore violations of our civil rights. Nor do I feel that we should be subjected to what we believe to be discriminatory practices that demean our pride and dignity."²⁸⁶ Newton also simultaneously claimed space within the burgeoning Black Power Movement and within the Civil Rights Movement. Put another way, not only were Black student athletes' constitutional and human rights violated, but as importantly, the department had a responsibility to allow Black students to express their blackness. To Newton, and other members of the Syracuse 8, Black players should have a more active role in determining Athletic Department policy to ensure a more equitable department.

Schwartzwalder also received pressure from Robert Mangum, the Commissioner of Human Rights in Syracuse, to reinstate the Black athletes. The commissioner argued that the conflict simply could not be resolved through traditional negotiations. "I firmly believe from the facts available to me that it cannot be conciliated to the satisfaction of all parties concerned."²⁸⁷ Mangum's concerns were understandable when Schwartzwalder's actions are seen in the context of the code for Syracuse athletes. The Code had seven particular tenets that student athletes needed to follow.

1. An athlete at Syracuse University is aware of the value of intercollegiate athletics to the institution and to himself and will accept participation as an opportunity for self-development and for contribution to the institution. He also accepts the responsibility that accompanies the opportunity by regular attendance at practice, by an all-out effort, by loyalty to his team and support of the University.
2. He conducts himself as a gentleman always on and off the campus, and never, through misbehavior, embarrasses his university, coach, teammates, fellow students or family.
3. Considers it a privilege to represent Syracuse University and as an athlete realizes that he will be in the public eye and hence is careful in his associations.
4. Meets all University appointments and obligations promptly and regularly, both in the classroom and on the athletic field.
5. Conforms absolutely to the training rules established by the coach of his sport.
6. Obeys the instructions and orders of the departmental staff members that are normal and necessary to the operation of the sports program.
7. Knows that willful disregard of this code can result in suspension from his athletic squad and/or other disciplinary penalties and possible graduation or cancellation of financial aid.²⁸⁸

²⁸⁶ Ibid.

²⁸⁷ Letter to Ben Schwartzwalder, Written by Robert Mangum, RG 13, Box 3, Personal Papers-Football Strike, 1970, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁸⁸ Code for Syracuse Athletes, 1969, RG 13, Box 3, Personal Papers, Personal Papers-Football Strike, 1970, University Archives, Special Collections Research Center, Syracuse University Libraries.

Mangum's fears about compromise, specifically, the lack of a compromise, were well justified. Syracuse's athletic code, influenced by amateur sports' roots in industrial capitalism and labor relations, formed a bubble that insulated coaches and athletic departments from any sort of compromise with student-athletes. The code depended upon student athletes' absolute obedience to the coaching staff and to the athletic department in general. For example, the first tenet of the code demands student athletes accept the alleged "benefits" of amateur athletics, that amateur athletics provided an intrinsic benefit available to all who accepted his role within the athletic department. The first tenet also stipulated that student athletes provide an "all-out effort" within their training and off-field jobs, something that would not feel out of place in a nineteenth-century company town or early twentieth-century factory job.²⁸⁹ In case the student athlete did not fully understand his role within the department, the fifth tenet forced student athletes to swear absolute loyalty to the coach on "training rules, of which the code does not provide a definition nor stipulate any type of regulations. These tenets, amongst others, helped form the negative space that Schwartzwalder would wield against Newton and other members of the Syracuse 8.

Like Mangum predicted, Schwartzwalder responded to these allegations by using the Code and his statutory authority over student athletes as central reasons for why he could dismiss the student athletes and refuse to compromise with the Human Rights Commission or the athletes. He argued nine specific points.

1. They voluntarily withdrew from spring practice for a period of 16 sessions (out of a permissible 20), knowing full well that this was the period when the coaching staff determined playing positions, organization of personnel in depth, etc. for this regular fall season.
2. This action demonstrated a breach of faith with the coaches and the other squad members and a lack of loyalty and discipline.
3. This action violates the published Code for Athletes at Syracuse University.
4. The withdrawal action alienated the remaining squad members who are interested in the success of the team. The active players condemned this boycott action, unanimously, declared their confidence and support of the coaching staff, and responded with a fine performance in the remaining practice sessions.
5. Reinstatement of the entire boycotting group would do irreparable damage to the effectiveness, performance and morale of the 1970 squad
6. Before I held individual interviews with the athletes who withdrew from spring practice relative to their return, Director Decker and I met with Chancellor Corbally on this subject on July 21. At that time, I was told to use my judgement on who should return to the squad, considering performance, attitude, etc. This I did.
7. Since these decisions on the individuals involved, the action of some of these players supports their impracticability on the football squad.
8. Two of the boycotting players (Robin Griffin and Greg Allen) were reinstated because, in my judgement, and that of the staff, their spring action was based on duress. These opinions were formed after discussions with these individuals who contacted me voluntarily and aided me in making a favorable judgement.

²⁸⁹ First Tenet in the Code for Syracuse Athletes, 1969, RG 13, Box 3, Floyd "Ben" Schwartzwalder Personal Papers, Personal Papers-Football Strike, 1970, University Archives, Special Collections Research Center, Syracuse University Libraries.

9. The game of football demands that the head coach has complete authority in selecting players and their positions, and establishing basic rules of conduct and performance. He must drop those candidates who are unfit for the physical demands of football, or damaging to team discipline and morale or unwilling to follow his rules and instructions.²⁹⁰

Schwartzwalder's defense centered around the virtually unassailable authority of the head coach within the Athletic Department. His defense had three main pillars. First, his position depended upon the space within the athletic department, which provided the coach with near autonomy over student athletes' lives within the department, something that the Chancellor agreed with. Second, he argued that the student-athletes voluntarily left the team, and thus could not retroactively claim reinstatement. Third, these student-athletes were or should be personally loyal to the coach and the Athletic Department, making any outside inquiry unnecessary. Schwartzwalder's more pressing claims indicated that the Syracuse 8, and all members of the football team were or should be loyal to him, coaches and to the Athletic Department.

The nature of the coaches' authority, to Schwartzwalder, lay with how football as a game was conducted. As Schwartzwalder noted in his defense, he should have "complete authority over selecting players for positions, basic conduct and performance." Complete authority is, by definition, unreviewable. In his appeal, Schwartzwalder provided neither stipulations for what counted as basic conduct, nor a breakdown for what counted as acceptable performance. To Schwartzwalder, student-athletes, the university administration and the Human Rights Commission possessed neither the knowledge nor authority to criticize his decisions.

Schwartzwalder's other arguments reflected this line of autocratic thinking. He argued that reinstating athletes would irreparably damage team morale. Schwartzwalder claimed that reinstating the athletes would place the rest of the team in a state of physical and psychological duress, something that even he could not solve. This particular claim, though potentially accurate, subtly reinforced Schwartzwalder's authority by making him the voice of authority over the mindset of the team. Schwartzwalder also argued that, contrary to the athletes' account, he did not dismiss them from the team: the athletes voluntarily left the team. Voluntarily leaving the team, in Schwartzwalder's argument, voided any responsibility that any entity outside of the Athletic Department could claim over the reinstatement process. Because the student athletes left the team willingly, they could not claim that they were owed reinstatement because Schwartzwalder did not dismiss them.

Popular Will, The Human Rights Commission and Labor Ideologies

Though Schwartzwalder claimed unilateral authority over the football team, Mangum was not fully swayed by his arguments. He recommended that Corbally and Schwartzwalder reinstate the protesting athletes immediately. Corbally followed Mangum's recommendations, and suggested to Schwartzwalder that he needed to reinstate the athletes by October. Though Mangum and Corbally attempted to reconcile the protesting athletes and their coach, they underestimated the popularity of Schwartzwalder and how influential ideas about inequitable power structures within

²⁹⁰ Causes and Reasons for not Reinstating Seven Football Players, written by Floyd "Ben" Schwartzwalder, RG 13, Box 3, Floyd "Ben" Schwartzwalder Personal Papers, Personal Papers-Football Strike, 1970, University Archives, Special Collections Research Center, Syracuse University Libraries.

athletics was to the general public. Though fans made their support for Schwartzwalder clear, using racist overtones and undertones, these fans also argued that the untrammelled authority of the coach, and even sport itself, made student-athletes into more productive laborers. Black student-athletes, by virtue of their blackness and their intransigence, could not be allowed to threaten these lessons.

Alumni excoriated the Chancellor's statement, despite the fact that reinstatement was largely dictated to the Chancellor by the Human Rights Commission. These objections were expressed in a multitude of ways. For instance, Paul Mahan, a fan, argued to the chancellor that siding with the protesting Black athletes would make a mockery of fairness, and the coaches' autonomy. "As a loyal alumnus of Syracuse University, I am strongly protesting your action in forcing Coach Schwartzwalder to take back the black football players. His action was entirely correct in not inviting them back after they had refused to take part in the Spring Practice. If you appease these boys in this manner, it will only be a matter of time before they make further demands for favored treatment."²⁹¹ To the Black players, calling them boys" was certainly an example of racist language. Martin Luther King Jr famously noted that "boy" was the "middle name" for many Black men in white spaces. However, in the context of student-athlete coach relationships, the term "boy" also signified the need for the coach to guide and instruct players into adulthood by training them to be citizens and laborers. Thus, when Schwartzwalder called players "boys," in Mahan's mind, and probably Schwartzwalders' mind, it was stripped of any racial connotation, replaced by a sense of patriarchal recognition for how far a player needed to go to become a working member of American society.

Mahan was joined by a more vociferous voice, Edward Abbott. Within his letter, Abbott openly discussed the importance of football to the nation's cultural and political fabric. In a flourish that would make coaches in the 1950s swoon, he predicted the failure of Syracuse's football as a result of the Chancellor's lack of backbone. "In one swipe, you have started the ball rolling towards ruining Syracuse University Football. While I have not been a Schwartzwalder die-hard football wise, I do admire his belief in America and his courage to act on his belief. It appears the same cannot be said for you or your board of trustees."²⁹² Later in the letter, Abbott switched course, arguing that a coach's authority trained students for discipline within the workplace. For Abbott, student-athletes could not be allowed to transcend a coach's disciplinary policies because it would subvert the very ethos of a team, "Without discipline, there is no football squad as there could be no police force or army under like circumstances. Even a college president should be able to understand that those arrogant seven players will now, even during a game, tell the coach where to go because all they have to do is run to you if he benches them."²⁹³

²⁹¹ Paul Mahan, letter to Chancellor John E. Corbally, August 26, 1970, RG 13, Box 3, Floyd "Ben" Schwartzwalder Personal Papers, Personal Papers, Football Strike, 1970, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁹² Letter to Chancellor John Corbally, written by Edward Abbott, August 26, 1970, RG 13, Box 3, Floyd "Ben" Schwartzwalder Personal Papers, Personal Papers, Football Strike, 1970, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁹³ Edward Abbott, Letter to Chancellor John Corbally, August 26, 1970, RG 13, Box 3, Floyd "Ben" Schwartzwalder Personal Papers, Personal Papers, Football Strike, University Archives, Special Collections Research Center, Syracuse University Libraries.

John Laidlaw concurred with Abbott in a letter to the Chancellor. In addition,, he offered a different kind of argument rooted in Syracuse’s alleged history of racial progressivism. He strenuously argued that Syracuse’s commitment to racial diversity, particularly in the Athletic Department, was unmatched by any university in the east. To Laidlaw, Black athletes should be grateful for the opportunity to express their discontent. “There isn’t a university, at least in the East, that has done more for the colored athlete than has Syracuse. One might say that Coach Ben Schwartzwalder was the man who fostered their careers at Syracuse back in the middle 50s.”²⁹⁴ At best, this argument was both paternalistic and racially offensive.

Furthermore, the coaches’ prerogative was central to Laidlaw’s arguments about how student-athlete dissent should be treated. As a former athlete, Laidlaw argued that a coach’s prerogative within his particular field must be absolute. “As a former member of the Washington crew, nobody knows better than you that the coach of any sport has to be the boss. The rules he set have to be enforced and if he is going to carry any respect at all, there is no question about his authority.”²⁹⁵

Negating Human Rights and Suppressing Student-Protest

Still, Chancellor Corbally, spurred by the players’ complaint and the Human Rights Commission, told Schwartzwalder to reinstate the athletes. However, potentially swayed by fans and the lingering belief that the Athletic Department should manage its own space, he allowed Schwartzwalder to dictate the terms of reinstatement. This was an expression of how powerful the negative space surrounding the department was: even a Human Rights Commissioner and the Chancellor could not fully pierce the space. Schwartzwalder took full advantage of his autonomy and drafted a plan to reinstate the black players. His plan had six particular tenets. It began: “In requesting reinstatement as a member of the Syracuse University football squad, I concede that dismissal from the squad was a logical consequence of missing football practice for a protracted period during Spring, 1970. I further recognize that this absence from practice for a protracted period affects my status with regard to the initial depth chart. In support for my request for reinstatement and as evidence of my desire to contribute meaningfully to the success of the football team, I make the following commitments to the coaching staff and to the tri-captains of the football team.

1. I have read and reaffirmed acceptance of the Code for Syracuse Athletes
2. I promise a cooperative attitude and commit myself to 100 percent effort in all drills and other assignments
3. I am willing to play any position designated by the football coaching staff
4. I will accept and follow all training rules established by the coaching staff and all rules and decisions related to such matters as training table, trip lists, trip schedules, ticket allocations and housing. I understand that these rules and decisions will apply equally to all members of the squad.

²⁹⁴ John Laidlaw, letter to Chancellor Corbally, December 15, 1970, RG 13, Box 3, Floyd “Ben” Schwartzwalder Personal Papers, Personal Papers, Football Strike, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁹⁵ Ibid.

5. I agree that it is a disservice to the team and to individuals concerned to air grievances in the public arena. The grievance procedure outlines in Item VI is the logical approach to the resolution of past and present complaints and dissatisfactions and I will follow the proposed procedure.
6. I agree that all complaints or grievances will be taken up initially with Coach Schwartzwalder or with an assistant coach. If this discussion does not resolve the grievance, I shall discuss it with the Director of Athletics. If still dissatisfied with the result, I will discuss the problem with the Chairman of the Athletic Governing Board.”²⁹⁶

Naturally, the protesting athletes balked at the reinstatement proposal. Schwartzwalder had seemingly done the impossible: he reinsulated his power over student-athletes from any institutional restraint and reinforced the negative space around the football team. Schwartzwalder’s initial framing simultaneously delegitimized the Human Rights Commission’s ruling and attempted to prevent any outside interference in the Syracuse football team’s affairs. Schwartzwalder’s intentions were evident from the first sentence. By framing the petition as a “request for reinstatement” rather than a directive from both the Chancellor and the Human Rights Commission, Schwartzwalder attempted to recast his position of authority over the reinstatement procedure. An essential part of this was figuring a way to handle the Human Rights Commission’s ruling. Schwartzwalder would come up with a nefarious, yet simple way to neutralize the Human Rights Commission and the Chancellor’s interference in a single stroke. In order to apply for reinstatement, Schwartzwalder required the protesting athletes to, not simply renounce their personal beliefs and reasons for protesting, they were required to disavow the Human Rights Commission’s findings, that their dismissal wasn’t racially motivated, or unjust. Thus, the student-athlete’s reinstatement would strengthen the space that the football team operated in, practically and conceptually.

Many of Schwartzwalder’s demands reflected the hybridity of student-athletes as labor. For example, the plan would allow coaches to play the players at any position of the coach’s choosing, illuminating a type of flexibility that managers often had over their employees. Schwartzwalder also demanded that the student-athletes show up to practice and games with a “cooperative attitude” as well as promising to commit to “100 percent effort level” in all areas of athletic life.²⁹⁷ Schwartzwalder, and Schwartzwalder alone, would determine if a player was giving “100 percent” effort, and would possess the power to dismiss any player he felt did not provide 100 percent effort in drills.

Clauses two through four reflected Schwartzwalder’s attempts to reassert his authority over the Black student-athletes. Under the “new” plan, student-athletes could not question any decisions the athletic department made about their positions, scholarships, or even housing policies.²⁹⁸ If the first four clauses attempted to recenter student-athletes under rules similar to rules that laborers were subject to, clauses five and six attempted to close the holes that the Corbally and Mangum opened in the Athletic Department’s negative space. By attempting to

²⁹⁶ Reinstatement document by the Athletic Department, Spring 1970, RG 13 Box 8, Chancellor John E Corbally Records, Black athletes, University Archives, Special Collections Research Center, Syracuse University Libraries.

²⁹⁷ Ibid.

²⁹⁸ Ibid.

restrict student-athletes' grievance processes to the Athletic Department, Schwartzwalder attempted to prevent outside influences from "corrupting" players under his charge, thus making him the sole adjudicator of individual and team-wide disputes. More perniciously, Schwartzwalder claimed that any attempt at outside intervention was "illogical," delegitimizing any outside review of Schwartzwalder's management of the team. Thus, the all-important lessons student-athletes needed to learn to become citizens and laborers would be preserved, at the expense of Black athletes' rights as students.

After the players refused to accept Schwartzwalder's plan, Corbally upheld Schwartzwalder's suspensions for the remaining 1970 season, backed by pressure to do so from alumni, fans, and perhaps most importantly, white players on the Syracuse team. Forty-six out of fifty white players signed a document pledging support for Schwartzwalder.²⁹⁹ However, Corbally's decisions became increasingly complicated. On September 21, Syracuse received word from the New York State Human Rights Commission that it was prepared to take legal action to force the reinstatement of the suspended black players.³⁰⁰ Thus, if the chancellor upheld the suspensions, he would appear to be opposing the state's Human Rights Commission's findings, a position that not only violated his responsibilities as an administrator, but his personal views on student activism. Corbally informed Schwartzwalder of the pending lawsuit, and they worked out what appeared to be an agreement to reinstate all the players who had participated in the boycott; Corbally even announced that the suspended players would report for practice on September 23.

Yet, Schwartzwalder pulled his final, and most potent card, one that perhaps signaled the true strength of the space surrounding the Athletic Department, unilaterally declaring the Syracuse 8 either academically ineligible or medically ineligible.³⁰¹ Neither decision was explained to the players. As John Lobon lamented: "We were told we would all be allowed to return to the team, but when we reported the next day we were told that four of us would not be allowed to return for academic reasons. It was the first I heard of it."³⁰² Schwartzwalder also did not explain or justify his decision to Corbally or Mangum. He did not need to. As head coach, Schwartzwalder had a unique authority over student-athletes' academic information, and even more over student-athlete's biomedical information. This authority was legitimized by old ideas dating back to the nineteenth century, ideas about coaches as authorities in medicine and educators.

Schwartzwalder did not simply possess unique biomedical and academic knowledge, many claimed he possessed unique conflict resolution and managerial skills. Perhaps the most ardent defenders of Schwartzwalder were white football players. Throughout the crisis, Schwartzwalder claimed that he was preventing a revolt from white athletes on the team. On August 27, the *New York Times* reported that "68 members of the football team walked off the practice field . . . in an apparent symbolic counter-boycott to one staged earlier in the year by suspended black players."³⁰³ Further legitimizing the protest, quarterbacks Paul Paolisso and Randy Zur, playing a position that traditionally led football teams off and on the field, told the *Times* that the squad fully supported

²⁹⁹ David Marc, "End of an Error," in *Leveling the Playing Field: The Story of the Syracuse 8*, 113, 126.

³⁰⁰ Ibid.

³⁰¹ John Godbolt, John Lobon, Dana Harrell, and Duane Walker were declared academically ineligible and Greg Allen, Richard Bulls, Bucky McGill and Alif Muhammad were declared medically ineligible.

³⁰² John Lobon, "Oral interview," in David Marc, *Leveling the Playing Field: The Story of the Syracuse 8*.

³⁰³ "Players Support Syracuse Coach," *New York Times*, August 28, 1970, 24.

Coach Schwartzwalder and his staff in the controversy involving the suspended black 8 players, and they planned to continue their demonstration for at least two more days.³⁰⁴

Though Schwartzwalder himself told the Syracuse 8 that missing practice was the primary reason for their dismissal, these white players were seemingly-allowed to miss practice without any disciplinary action. As Marc David notes, racism played a fundamental reason in Schwartzwalder's decision-making here. This position was made evident when the white players provided a manifesto on the third day of their counter-protest, highlighting their position about the Syracuse 8's protest. This manifesto, surprisingly, did not contain many, if any, concrete stipulations, but it reflected how coaches were managers, in the mind of many of their players, and that they required extraordinary power to properly work in the athletic sphere. The players had nine observations overall. In their second observation, the players argued that the Syracuse 8 attempt to transcend their proper role as subordinates within the athletic sphere. "It would appear that ten members of the squad are attempting to dictate the football policy of Syracuse University. This we will not permit."³⁰⁵ Thus, white players argued that even they should not have any input in Athletic Department policy. Indeed, the coaching staff alone should dictate policy on the team.

Other observations compare Schwartzwalder to a particularly skilled manager, with the white players arguing in observation six that "Our recent practice sessions have been the best that we have had in years and in our opinion, cannot be improved upon."³⁰⁶ Furthermore, the players continue this line of thought in their next observation, noting that they "never had the spirit as great as it exists on our practice field this year."³⁰⁷ These observations cast Schwartzwalder as a highly skilled manager who required absolute power to retain his effectiveness. Schwartzwalder used this testimony from white players, alongside his own authoritative power to systematically delegitimize any hope of the protesting Black athletes' return. As Duane Walker noted despondently: "We were convinced the coach was getting rid of us, no matter what it did to the team. It wasn't like Ben would get fired if he had a bad season. He could just blame it on us."³⁰⁸ Increasingly, the Syracuse 8 saw reinstatement as a false front. No one, neither the Human Rights Commission nor the Chancellor could force reinstatement, let alone change the attitudes of white players towards them.

Still, Corbally did not allow Schwartzwalder's dictatorial power and the coach's strong support from white players to completely dictate his actions. Instead, he formed an investigative group to look into the discrimination charges levied against the Athletic Department.³⁰⁹ The group, led by Jim Carleton, the vice-chancellor of student-affairs, consisted of professors, graduate students and administrators. It would have been easy to think that change was on the horizon. In December, the investigative group released its much-anticipated report, and perhaps most importantly, the committee recognized the labor-like relationship among student-athletes, their coaches and the Athletic Department. "How is it," the report asked, "a university with a successful

³⁰⁴ Ibid.

³⁰⁵ A petition signed by sixty-eight white members of the Syracuse football team in support of Coach Schwartzwalder, alleging that racial inequality did not exist on the team, August 24, 1970, Floyd Ben Schwartzwalder Papers, University Archives, Syracuse University Libraries.

³⁰⁶ Ibid.

³⁰⁷ Ibid.

³⁰⁸ Duane Walker, "Oral interview," in David Marc, *Leveling the Playing Field: The Story of the Syracuse 8*

³⁰⁹ Ibid., 115.

record of developing many famous Black athletes is now confronted with a very serious problem concerning Black athletes? Part of the answer lies in the traditionally authoritarian organization of intercollegiate football teams. The head coach is the boss. He and his assistants determine the style of play, the qualifications of players for various positions, and the training and practice rules. While players may express their opinions and may be consulted, the final authority is with the coaching staff.”³¹⁰

The investigative committee also noted that by not acknowledging that the Syracuse 8’s concerns were intrinsically linked to their experiences as Black people, the Athletic Department was actively, even if not unintentionally, prejudiced against their Black players. By extension, the committee rejected the insularity of the Athletic Department’s negative space, “The definition of the spring boycott of the Black athletes merely as an issue of violating coaching authority and the penalizing of these without taking into consideration the broader context of their protest was an act of institutional racism unworthy of a great university.”³¹¹ Thus, the committee acknowledged that the personnel in the Athletic Department were insensitive to the needs of black players and left them no other option but to protest.³¹² The suspended players should not be suspended for, in the committee’s mind, the racist policies of the Athletic Department.

The committee proposed institutional changes that, if enacted, would pierce the space the Athletic Department used so effectively. Most prominently, the committee argued for a new Athletic Policy Board. The committee, recognizing that the previous Board was hamstrung by the neglect of prior administrations, recommended that the Board have “responsibility for overall policy and direction, control and supervision of intercollegiate and intramural athletics at Syracuse University subject to the review of the Chancellor and through him the Board of Trustees.”³¹³ This board would supplant the Athletic Director as the head of the Athletic Department. Also, though the committee recommended increasing the athletic director’s powers, the director would be directly answerable to the Athletic Policy Board. The committee also recommended rewriting the athletic code, adding that student-athletes not only had freedom to express their political opinions, but also that their social lives and personal lives should not be dictated by the coaching staff.³¹⁴ The committee also proposed revamping the Athletic Department’s disciplinary policy, recommending that the Athletic Policy Board helm the department’s disciplinary apparatus and allow student-athletes to bring representation to their prospective meeting with the Board.

Conclusion

While the committee made notable recommendations, they did not attempt to completely dismantle the labor nexus that student athletes were subject to. They left critical parts of the athletic experience in the hands of the coaching staff. For instance, the committee did not address the athletes’ medical complaints in the report at all. The medical staff played an integral role

³¹⁰ Report of Trustee, Faculty, and Student Committee on Allegations of Racial Discrimination in the Football Program, December 1970, Syracuse 8 Collection, University Archives, Syracuse University Libraries.

³¹¹ *Ibid.*, 31.

³¹² *Ibid.*, 32.

³¹³ Report of Trustee, Faculty, and Student Committee on Allegations of Racial Discrimination in the Football Program, “Article 6: Recommendations,” December 1970. Syracuse 8 Collection, University Archives, Syracuse University Libraries, 32.

³¹⁴ *Ibid.*, 33.

suppressing the protest; Schwartzwalder could unilaterally rule student-athletes medically ineligible because the medical staff was directly answerable to him. By ignoring these critical complaints, the committee reinforced the head coach's power. Additionally, in their analysis of academics, the committee noted that they "were not able to find any evidence of racial discrimination."³¹⁵ Yet, as many African American players recalled, academic discrimination was rampant within the program, and this academic discrimination further exacerbated how student-athletes were conceptualized and managed like labor.³¹⁶

Perhaps most poignantly, the committee could only make recommendations. They could neither enact nor enforce any of their recommendations. Ultimately and fundamentally, they served an advisory role. For instance, the committee astutely noted that the Syracuse faithful and players would not tolerate the firing of Schwartzwalder and therefore kept him employed as the head coach. The Committee, to reiterate, also could not reinstate the players. Though they argued that the players should not have been suspended in their report, they did not have any enforcement power. The Committee thus could not fully address the structural racism within the Athletic Department, and as importantly, did not remove powers from the coaching staff that allowed them to manage student-athletes like labor.

The atrophy of the Athletic Board into a largely honorific body was cited as a reason for "the long-standing authoritarian role of the head coach." But that statement is the closest the committee came to assigning individual responsibility to Schwartzwalder or others for the protest and the university's subsequent response to it. The negative space that surrounded the department was seemingly ubiquitous, impervious to outside interference. Schwartzwalder kept coaching until 1974, when he retired from Syracuse University. He was memorialized, both inducted into the College Football Hall of Fame in 1983 and remembered through the Ben Schwartzwalder Trophy, which is awarded to the winner of each game between West Virginia University (where he had played as a college student) and Syracuse University.

The Syracuse 8 were treated far differently. Not only were all but one removed from the team, to a man, but some were also blacklisted from the professional ranks. Corbally, who resigned in 1971, took great pains to assure that the Syracuse 8's athletic scholarships would be honored in good faith, without interference from anyone. Yet, the Syracuse 8's sacrifice would not be in vain. After Schwartzwalder retired in 1974, Syracuse hired Frank Maloney as their new football head coach; one of his first staffing hires was Bill Spencer, a Black assistant coach from Cornell University. Spencer played a significant role in recruiting Art Monk in 1976, a Black student-athlete who would become one of Syracuse's greatest football players. In an interview, Monk recollected on how different his experience on the football team was in comparison to the Syracuse 8's and how their protest fundamentally changed the culture of the Athletic Department: "There was never any name-calling or anything like that. I've been asked about this before, and I can tell you that there wasn't even any kind of subtle hint of racism that I could pick up....I suppose in one way that's good because it shows how different a place Syracuse had become in such a short time. But in another way, it's kind of a shame. I had no idea for all those years of how much I owe

³¹⁵ Ibid., 28.

³¹⁶ Al Newton Jr, Complaint to the State of New York Division of Human Rights for unlawful discriminatory practice relating to education, complaint no. V-C-E-688-70, September 3, 1970, RG 13, Box 3, Personal Papers Personal Papers-Football Strike, University Archives, Syracuse University Libraries.

those guys, and how much everyone owes them, for the sacrifices they made.”³¹⁷ Though the Syracuse 8’s protest could not fully remove the department’s negative, they did dramatically change the culture of the program.

³¹⁷ A Courageous Stand: The Story of the Syracuse 8” exhibition, University Archives, Special Collections Research Center, Syracuse University Libraries.

Chapter Five. Playing a Different Game: Student-Athlete Protest at the University of California-Berkeley

Introduction

The year 1968 would prove iconic for protesting athletes, and the movement started, perhaps surprisingly in this context, at the University of California at Berkeley. The university was famous (or infamous) for the multitudes of student protests throughout the 1960s, but in 1966, Chancellor Roger Heynes recognized that Berkeley was not as friendly to African Americans as its reputation suggested. The institution's faculty was overwhelmingly white, with African Americans holding 6.4 percent of faculty or professional research ranks and zero African American associate professors and librarians in that year.³¹⁸ At the same time, Berkeley's athletic department had not been known for its quality for decades, but 1968 was an extraordinary year in Berkeley athletics: both the men's basketball team and the football team were projected to have winning seasons. The basketball team, powered by junior sensation Bob Presley, was projected to finish at the top of the Athletic Association of Western Universities. The football team, led by Bob Smith and John McGaffie, were projected to finished in the top half of the conference as well. The campus pulsed with excitement about both teams.

However, as unlikely as success in Berkeley's athletics were, no one predicted the explosions that rocked the athletic department throughout the 1968 academic year. Many members of both the basketball and football teams protested for various reasons, from black basketball players, to black football players, to white basketball players. The powder was set off early in the year, during the basketball season. On January 19th, 1968, head basketball coach Rene Herrerias suspended Bob Presley, the center that was supposed to lead the team to victory, indefinitely for what the campus newspaper, the *Daily Cal* could only report as a "violation of team rules." Herrerias later reported that his violations included skipping practice and wearing an Afro-style haircut, both in opposition of team rules and a flagrant example of how negative space operated within the athletic department at Berkeley.³¹⁹ Two days later, in a remarkable feat of inconsistency, Herrerias reinstated Presley.³²⁰ The coach told the *Daily Cal*, "The matter is personal, in that that it is a coach-player situation, and I feel the violation involved and the penalty already imposed are comparable."³²¹ But it was too late to prevent unrest.

Two days after Presley's reinstatement, Black athletes at Berkeley began a strike to express their outrage and demand the university act against Herrerias, arguing that the team rules were racist. Under competing pressures from these black student-athletes and the athletic department, Berkeley created a committee to investigate the black athlete's claims. Students at Berkeley possessed an unusual amount of protections around their right to protest, won through protests that had begun in the 1950s and intensified in the 1960s; these protections had been created in the context of a growing refutation of the principle of *in locus parentis*—the growing rejection of the idea that universities possessed parents' authority to manage students as children.³²² Of course,

³¹⁸ Roger Heynes, "Berkeley: Office of the Chancellor, Status of Minority Group Employment on the Berkeley campus," Cu-149, Box 60, 1966, Bancroft Library Special Collections, University of California-Berkeley.

³¹⁹ Bill Cockerham, "Herrerias suspends Presley," *Daily Californian*, January 19, 1968.

³²⁰ Bill Cockerham, "Basketball Star Reinstated," *Daily Californian*, January 23, 1968.

³²¹ Bill Cockerham, "Basketball Star Reinstated," *Daily Californian*, January 23, 1968.

³²² *In locus parentis* means "in the place of the parents."

this was not the first student protest on Berkeley's campus in the 1960s. Famously, Berkeley students grappled with the university during the Free Speech Movement in during the mid-1960s, and Berkeley students were famously activist during the 1960s, and even during the late 1950s. As a result, Berkeley, institutionally, possessed greater experience in managing student protest than most other universities.

These protections were not universally popular throughout the state or country at the time; the Chancellor's double jeopardy policy, a policy that prevented students from being punished by law enforcement and the university for protesting, received much backlash from both state and federal officials. Bert Betts, the state treasurer, argued that student demonstrators should be expelled, with involved professors fired as well, noting that "there's no reason for allowing these students to remain in school."³²³ Yet other officials defended student's First Amendment rights, arguing that suppressing speech will lead to a slippery slope. The state's congressional record for 1965 included the statement, "The fundamental right to protest remains. It is our duty to protect it so long as it carried on in accordance with the laws of the United States, no matter how much we disagree with what is said.... Let us remember too that it is necessary to say this at this moment when so many of us defended demonstrations by Negroes for equal opportunities and civil rights, the denial which bothered the consciences of so many of us."³²⁴

However, the institution's reaction to Black student athlete protest following Presley's suspension did not reflect an institutional commitment to protecting free speech or a continuation of its historical treatment of protesting students. Rather, its reaction reflected how student-athletes were stripped of their status as students and were thought of as laborers. This example, coming before student athlete protests elsewhere, reflected the surprising fact that even a liberal public institution like Berkeley with its robust anti-discriminatory policies still bowed to the prerogatives of coaches and the athletic department when it came to disciplining student athletes. Negative space thus allowed the authority of the athletic department, particularly the coach, to be both paramount and ubiquitous: it swirled around student athletes and was seemingly impenetrable.

For their part, the Black athletes used the tactics and language of the Black Power Movement to legitimize their protest, arguing for Black coaches, Black doctors and a culture that was friendly to Black people. But unlike many Black students who protested under the aegis of the Black Power movement in the 1960s, Berkeley's student athletes argued for reforms that were strictly tailored to their unique workplace situation. They called for dramatic changes in the athletic department, many of which centered around their status as Black students and Black workers. These changes would address the ideology of coaching and the coaching staff itself, the work and housing allotments the coaches provided, and changes in housing allotments. They argued that the athletic department's treatment of them reflected a lack of cultural and racial awareness. Dismissing Presley for his afro, in the Black athlete's minds, reflected a lack of racial and cultural awareness, but also demonstrated how easily coaches could strip student athletes of rights students had: a student could not be dismissed for wearing an afro. Though these black student-athletes argued that they should be treated more like students, their demands more prominently reflected

³²³ Letter to the Chancellor, written by Bert Betts, Cu-149, Box 60, in University of California-Berkeley Office of the Chancellor Records, Bancroft Library Special Collections, University of California-Berkeley, P.1.

³²⁴ Congressional Record: Proceedings and Debates of the 89th Congress, First Session, October 22, 1965, Cu-149, Box 60, University of California-Berkeley Office of the Chancellor Records, Bancroft Library Special Collections, University of California-Berkeley.

their status as labor. Perhaps crucially, students at Berkeley generally opposed the athletes' demands, which may have made it easier for the athletic department and other university officials to ignore them.

The Berkeley protests provide a unique window into mechanisms that universities and coaches used to suppress student-athlete protests. While, unlike its counterparts at Wyoming and Syracuse, Berkeley's administration provided some semblance of due process for its athletes, it does not mean that student-athletes at Berkeley were not treated like labor. The athletic department employed strategies strikingly similar to those corporations employed in the face of labor protests in the nineteenth and twentieth century.³²⁵

The athletic department was able to unilaterally discipline student-athletes protestors as laborers for three interrelated reasons. First, the athletic department operated under a structure that resembled a twentieth-century corporation, with the coach possessing the power of a nineteenth-century foreman. Second, the Athletic Department considered student-athlete labor as "essential labor," and treated their protest accordingly. Third and finally, the broader student body did not acknowledge student-athletes as students, depriving student athletes of the allies they needed to secure substantial change.

Fifth Foul: The General Athletic Protest of January 1968

Presley's suspension from Berkeley's basketball team sent shock waves through campus. He wasn't just the most important player on Berkeley's team, he was an all-American athlete; he averaged nearly 23 points and 17 rebounds per game. Presley was arguably the second-best center in the Athletic Association of Western Universities (the precursor to the modern-day Pac 12), behind Lew Alcindor. This was no mean feat, as Alcindor, later known as Kareem Abdul Jabbar, was universally recognized as the best college basketball player in the country in 1968. The Cal Berkeley Bears were ranked in the top twenty in the country, thanks to Presley's efforts, and he was on pace to break Berkeley's records in points per game average, overall points scored, rebounding per game and overall rebounds gathered.³²⁶ He had led the team to a winning 1966-67 season, its first in six years, and in his junior year seemed to be poised to repeat the feat.

In the context of Berkeley's culture in the 1960s, the outcry after Presley's suspension was not unexpected to those paying attention to how African Americans were treated on campus. The barring of Afro haircuts was not the only condition student athletes were protesting. Athlete housing was, unlike general student housing, racially segregated. Until 1963 it had allowed competitor schools to subject its athletes to segregated facilities at away games, relatively late for non-Southern universities, and resentment persisted over the athletic department's treatment of Lynn Sims, a Black student who had been the vice president of the Junior class in 1963. The athletic department asked Sims to refrain from escorting a white woman competing in the football festival's beauty pageant for fear of upsetting festival attendees from the six universities participating in the festival who were from the South, many of which were still segregated.³²⁷ The

³²⁵ Elizabeth Faue, "Stability and Retreat: 1945-60," in *Rethinking the American Labor Movement* (New York: Routledge, 2017), 125.

³²⁶ *Ibid.*

³²⁷ Roger Heyns, "Berkeley: Office of the Chancellor, Athletics: Status of Minority Group Employment on the Berkeley campus," 1966, Cu-149, Box 60, 1966, Bancroft Library Special Collections, University of California-Berkeley.

university condemned the Athletic Department's action, but insisted there would be no changes to the department. The university acknowledged the negative space surrounding the athletic department; it behaved as if the Athletic Department were an entity separate from the rest of the school and outside of the control of the university's administration.³²⁸ The tepid response certainly affected racial tensions throughout the university: it would maintain this fiction of powerlessness in 1968.

On January 23, 1968, the headline "Black Athletes May Boycott to Protest Discrimination" splashed across the *Daily Cal*'s front page. The article quoted Black athletes, who stated that the "The Black athletes' position on this campus is very bad" and calling Presley's suspension (in spite of its reversal two days earlier) "the straw that broke the camel's back." A Black athlete explained, "The basketball team, as well as other school teams, including the football team, will only allow one star, and that star is always white." The implication as that Presley had been suspended because he was a star and the athletic team resisted his leadership.³²⁹ The protest was led by football players Bob Smith and John McGaffie Smith. McGaffie described the protesters' demands in the *Daily Cal*, calling for a black coach, better economic security for student athletes, better medical care for Black athletes and more recognition from both coaches and campus media for their accomplishments. Though Presley was the center of the protest, he was surprisingly quiet in the immediate aftermath of his suspension, telling teammates that he did not believe Herrerias or the athletic department was racist.

The administration's response reflected a continuation of the relationship between it and the Athletic Department that had been evident in 1963. It still respected the negative space the athletic department wielded within its jurisdiction. Vice Chancellor William Boyd stated that his office would do everything in their power to correct the problems of the Black Athletes.³³⁰ Pete Newell, the Athletic Director, told a *Daily Cal* reporter, "We try the best we can to see the Negro athletes are housed properly and have sufficient jobs, but we don't run off-campus housing and sometimes have difficulty finding summer jobs which athletes properly qualify for. The limits of financial aid are set by the Pacific Eight Conference and Cal gives all that it is allowed. We will not break the rules."³³¹ Newell added that, unfortunately for the African American players, "coaches are picked on merit, and not many [African Americans] have the necessary experience [to qualify to be coaches] at this time."³³²

Complicating matters for Berkeley's administration, on January 24, all 12 white players on the basketball team staged a counter-protest in support of Herrerias' dismissal of Presley. They argued that "The administration feared that Presley's dismissal would cause racial problems on the campus. Significantly, racial problems have arisen as a result of this afternoon's black athlete conference.... Our grievance has been and will be until corrected, that all team members, black and white, be treated equally."³³³ Additionally, they demanded a correction of all statements from the protesting Black athletes they considered inaccurate be corrected. Their statement concluded

³²⁸ Ibid.

³²⁹ Bill Cockerham, "Black Athletes May Boycott to Protest Discrimination," *Daily Californian*, January 23, 1968.

³³⁰ Ibid.

³³¹ Ibid.

³³² Ibid.

³³³ Bill Cockerham, "Racial Tension Rocks Cal's Athletic Department," *Daily Californian*, January 24, 1968.

by reiterating their desire for all athletes to be treated equally.³³⁴ Finally, the white athletes demanded that Herrerias not only keep his position, but that he be reinstated with full authority over the basketball team. Most importantly, the white athletes argued that the Chancellor's office should not control the basketball team's policies in any way; the athletic department should operate with even less oversight from the university apparatus than it currently operated under. In the minds of these white athletes, Herrerias was forced to reinstate Presley and thus did not have full authority over the team. This meddling, to the white athletes, defied the intrinsic logic of college athletics: a coach must have full, at times dictatorial authority over their team.

Robert Tannenbaum served as the white athletes' spokesperson. He told the *Daily Cal* that Herrerias had never been accused of racism before Presley's suspension and that in fact he had been forced by the university to commit acts of "reverse racism." He claimed that white players had been subject to a double standard in which they were dismissed for minor infractions that would have been tolerated by black players, though he provided no concrete evidence for this assertion.³³⁵ Additionally, Tannenbaum introduced a new wrinkle into the white athlete's definition of equality: that at least some Black athletes were demonstratively unqualified to be Berkeley students because of their recruitment under the two percent rule, a rule that allowed two percent of Berkeley's admitted students entry into the university even if they failed to fulfill academic standards for admission. Tannenbaum claimed that many if not most Black athletes on the basketball team had been admitted under this rule while implying that white athletes never were admitted based on this rule. Therefore, the university was discriminating against white athletes by admitting unqualified Black athletes.³³⁶

Smith, Presley and McGaffie responded by calling a press conference to reiterate their demands. At the conference they argued all Black athletes at Berkeley prioritized academics and over athletics, as one of their key demands was that Black students were provided with inadequate academic support. Yet, Smith argued that the athletic department's treatment of Black athletes should be the primary focus of the administration, questioning the behavior of coaches: "Herrerias was "incompetent because he cannot coach black players."³³⁷ Reversing his opinion on the suspension and the nature of the athletic department as a whole, Presley added that he had been "advised to not come to Cal because the athletic department is racist."³³⁸

At the press conference the protesting Black athletes then made ten specific charges, which the *Daily Cal* printed in full:

1. Racial Prejudice and overt discrimination persisted in the athletic department despite repeated complaints in the past
2. The Department failed to extend recognition and appreciation commensurate with the contribution of the athletes
3. Certain coaches were professionally incompetent and personally unwilling or unable to relate to Black athletes

³³⁴ Ibid.

³³⁵ Ibid.

³³⁶ Ibid.

³³⁷ Ibid.

³³⁸ Ibid.

4. Summer and scholarship jobs were not assigned fairly, with African American athletes receiving the worst jobs
5. A lack of cultural sensitivity and awareness that is reflected by derogatory comments about personal and physical appearance of Black athletes, which has directly led to the suspension of a black athlete.
6. Some members of the staff, including trainers and coaches, were reluctant to acknowledge that Black athletes get hurt in practice or games.
7. That in deciding which athletes should play, coaches have been influenced by a subtle and unspoken black quota principle.
8. The University has not made a sincere effort to hire coaches of minority background.
9. The Department does not provide Black athletes with adequate assistance for the housing market.
10. In academic advising, it is assumed that Black athletes are inferior students and therefore [they] receive inferior academic counseling and advice.³³⁹

Athletic director Pete Newell established a fact-finding committee consisting of three of Berkeley's deans, William Dauben, Donald Hopkins and Arleigh Williams, to conduct an investigation into his department that commenced within a week of the press conference. The committee was charged with investigating both Black and white players' claims of discriminatory treatment, including whether the department engaged in discriminatory treatment when providing work positions within and outside the department, if Black athletes were refused certain types of academic assistance and if Herrerias employed a racial quota system that determined who played, not the talent of the individual players.³⁴⁰

The committee's report released in March. It acknowledged that athletes might find the number of practices imposed on the basketball team onerous, and that this point of view might explain Presley's failure to attend some practices. However, these impositions were not valid reasons for missing practices and Herrerias' authority to suspend or dismiss Presley for missing practice was completely justified, "Many practices are attributable to the understandable commitment of coaches to winning. They have no tenure, and the security of their employment and professional advancement depend on their producing a winning effort. At times this leads them to take an all too professional and mechanical view of their responsibilities. The irony is that the desire of the Black athletes to be free of discrimination and the desire of the coaches for victory, all depend on the same requirement: that the coaches develop a higher level of sophistication and sensitivity in the area of human relations."³⁴¹ For the committee, the desire to win overshadowed any concerns about racial inequality or sensitivity.

³³⁹ Ibid., 2-3.

³⁴⁰ Report to Peter Newell, From Fact Finding Committee appointed by Chancellor Roger W. Heyns, March 25, 1968, Cu-149, Box 136, in Office of the Chancellor Records, Bancroft Library Special Collections, University of California-Berkeley.

³⁴¹ Ibid., 4.

Additionally, the committee abstained from making value judgements about coaching, preserving the privileged space that the athletic department existed within, yet, they still argued that coaches did not exhibit overt discrimination towards any players. “Black and white athletes alike agreed that while certain individuals in the Athletic Department have the ability to relate, others lack the sensitivity required. In the future, competence to deal with, relate to, and sympathize with complex human and social problems must be of great concern in choosing individuals to staff the well-integrated Athletic Department.”³⁴²

The committee absolved the Athletic Department of structural racism that the Black athletes claimed pervaded throughout the Department. However, it did note that the allocation of summer jobs in the work program reflected racially disparate treatment on an individual basis. The work program was divided into two types: work subsistence jobs for the academic year, and summer employment. Work subsistence jobs required 175 work hours over the course of the semester. The work ranged from recruitment of new athletes to cleaning the football stadium. The committee concluded that there was no evidence of racial discrimination in the allocation of these jobs, noting that “21 percent of athletes in the work subsistence program were black, and 35 percent of Black athletes held 35 percent of what was considered ‘good’ jobs.”³⁴³ Summer jobs consisted of working in the equipment room, training quarters, or ticket booths on campus, or student athletes could be outsourced to other employers throughout Berkeley. The committee noted that Black athletes had held those positions in the past but that none had been assigned them in the 1968 season.³⁴⁴ In addition to concluding that this was evidence of racially disparate treatment, the committee found that the department allowed prospective summer employers to ask racially sensitive questions and that there was other evidence of discriminatory hiring practices.

The committee failed to find evidence that the Athletic Department had implemented a quota system that prevented Black athletes from playing. Its report stated, “The essence of this charge is the suspicion that black players are used on a discriminatory basis and that the coaches have not been effective in developing the black athlete to his full potential.... The difference lies in a more personal and less mechanical approach to players, as well as in other considerations noted in this report.”³⁴⁵ Similarly, the Committee did not acknowledge any disparities in advising, although it acknowledged that some individual students might be having problems connecting with the Athletic Department. Thus, it stated, “Some of the problems in this area are: there is not sufficient personnel to allow the breadth of individual attention required, and in academic advising, the Department too often assumes for the athletes the role of academic faculty advisor. To try to function in this area independent of the academic side is neither wise nor possible. The Department can best serve the athletes by strengthening its ties with existing advising programs, and by serving as a coordinative rather than a front-line unit.”³⁴⁶ In other words, any problems that Black students claimed to be experiencing also affected white athletes as well. The committee also noted that the Department also did not conclusively address the Black athletes’ concerns about housing, arguing that the Department had done a good job with housing student-athletes.

³⁴² Ibid., 5.

³⁴³ Ibid., 5.

³⁴⁴ Ibid., 6.

³⁴⁵ Ibid., 9.

³⁴⁶ Ibid., 13.

The Committee called on the Athletic Department to work within the intent of the University's policies on non-discrimination. Therefore, it should inform potential employers in the summer employment program of Berkeley's non-discrimination policies. With respect to its conclusions with regarding housing, the committee contradicted the concerns of the Black athletes and argued that the department should reinforce the university's non-discrimination policies in every instance and should encourage the Black athletes to seek housing aid through the Office of the Dean of Students.

Denying systemic racism while describing systemic racism was a constant theme within the report. The committee's report contained these statements: "The basis for the charges of prejudice and discrimination lies not in policy as much in habits, attitudes and practices that are totally unrelated to policies." Here it seemed to acknowledge that members of the Athletic Department were behaving in ways that were racist, yet such behavior did not impact any official or unofficial policies. It went on, "While the Committee has not found facts, which point to deliberate discrimination by an individual, it has found speculation and conjecture which can only be rebutted by affirmative measures to prevent discrimination and prejudice."³⁴⁷ Thus it kept the focus on intent—which is generally hard to discern with certainty—while offering the weak, nonspecific remedy that the only way to completely refute intent is to take "affirmative measures to prevent discrimination and prejudice."³⁴⁸ A focus on intent also allowed negative space to thrive around the department: as intent is so slippery and difficult to ascertain, administrators thus argued that concrete policy, and therefore meaningful reform, could not be taken without the consent of the Athletic Department. The committee ultimately dismissed any concerns about the behavior of coaches thus:

"The Committee is not qualified to make judgements about the technical competence of coaches. The Committee has not found, or had reported to it, acts which clearly indicate the existence of overt discrimination in the policies and practices of coaches.... The coaches are dedicated to winning and they are determined to help each player develop the necessary skills and mental toughness to produce a winning effort."³⁴⁹

When the Committee released its report on April 1, they made thirteen suggestions that in theory might have served as "affirmative measures":

1. The Athletic Department should enlist the participation of the black athlete in educational, social and other meaningful functions of the university.
2. The Department should develop an in-service training program which will enable its members to become knowledgeable about minority cultures.
3. The Department should develop a program for coordinating its academic advising functions with the faculty advising programs available to other University students.

³⁴⁷ Ibid., 3.

³⁴⁸ Ibid., 3.

³⁴⁹ Ibid., 5.

4. The Department should involve members of the faculty in a re-evaluation of the philosophy and purposes of the tutoring program.
5. The Department should recruit tutors who are compatible with athletes and agree with the philosophy of the tutoring program. The Department should take a particular interest in black students for [these] position[s].
6. The Department should develop an orientation program for the athletes.
7. The Department should develop programs which will provide athletes the opportunity to develop meaningful social relations with each other.
8. The Department's job-recruiting program should be administered consistent with the University's no discrimination policy.
9. The academic, athletic and personal requirements and expectations [should] be clearly defined for the athlete during and after recruitment.
10. During recruitment, athletes should be precisely informed about the financial cost of attending the university, the limitations of the offered financial aid, other sources of other financial aid, and the limitations of summer job opportunities.
11. The Department, in Conjunction with the Chancellor's Faculty Athletic Representative to the AAWU, should examine the merits of the work subsistence requirement.
12. The Chancellor should make fuller use of existing committees that serve as advisors to the Department in the areas of policy and governance.
13. The Chancellor should make provisions for a follow-up report of this Committee, or a similar one, to be undertaken during the next academic year.³⁵⁰

Each solution mirrored the committee's overall conclusions: systemic racism did not exist in the department, only individual ignorance expressed through individual's habits. The committee's report reflected the power of the negative space that surrounded the athletic department. Many of the Committee's solutions did not fit with any of the Black athlete's demands; for example, the committee did not address medical racism at all, a central part of the Black athlete's demands. Additionally, recommendation ten simply calls for the athletic department to inform its athletes about financial costs, not actively participate in mitigating those costs. The space that surrounded the department was thus sacrosanct, mostly untouchable in the committee's opinion.

The Black athletes were bitterly disappointed with the committee's conclusions. Their demand for staffing changes, demands for more equitable medical treatment and housing had been completely ignored. McGaffie said that the university did not value their black students. Smith said that the report only focused on individual behaviors and that it made "no concrete

³⁵⁰ Report to Pete Newell, From Fact Finding Committee appointed by Chancellor Rodger W. Heyns, March 25, 1968, Cu-149, Box 136, Office of the Chancellor Records, Bancroft Library Special Collections, University of California-Berkeley, 12-15.

recommendations.”³⁵¹ Indeed, the committee could only “recommend” policies to the Athletic Department, not demand concrete action.

However, the problem of staffing seemed to solve itself: Herrerias and Newell both resigned in the ensuing weeks afterwards, effective that June.³⁵² Newell took a job as the general manager for the Portland Trailblazers, a professional basketball team. Herrerias cited the need to spend more time with family, as his wife had become seriously ill, and he felt it necessary to spend more time with her.

The University responded by promoting Jim Padgett, the assistant head coach and head coach for the freshmen team. This mollified the protesting Black athletes on the basketball team; Padgett was beloved by most of the Black players, and had earned a reputation for fairness. Presley was not suspended again and the 1968 season was one of the Berkeley Bears’ best that decade. Some hoped that the resignations meant the disputes in the athletic department were over, a mere blip in the radar of a wildly successful season in both football and basketball.

Yet, Berkeley’s student athlete troubles were far from over. On May 15, 1968, however, Smith and McGaffie organized another protest, this time involving the Black athletes on Berkeley’s football team. All thirteen black football players participated in May.³⁵³ The subject of protest was the decisions of head coach and assistant director of the Athletic Department Ray Willsey. While he had been praised by some students and alumni for insulating the football team from the turmoil on the basketball team,³⁵⁴ the players now alleged that playing time, positional competition, and Willsey’s decisions reflected drastic inequities.³⁵⁵ Players argued that Black athletes got less playing time than their white teammates and that the coach had refused to consider black players for quarterback. The protesters issued an open letter declaring their outrage that read in part, “It has become unmistakably obvious that in some areas of coaching the practice of favoritism and inequity, which permeated last year’s team, still exists.... We the Black athletes, want a winning team. We want the best twenty-two players on the field. We want the best player in each position. This has not been done.”³⁵⁶ Willsey refused to discuss their concerns. The athletes responded by boycotting spring practice, hoping that this would provide them leverage to negotiate with Willsey over their demands.

While many media outlets, including the *Daily Cal* and the front page of the sports section of the *Los Angeles Times* (under the headline “Negro Athletes Walk Out”) reported that the athletes also quit the team,³⁵⁷ in fact Willsey had dismissed all thirteen from the team. He explained his action thus: “I believe that there are certain prerogatives that belong solely to the head of any team.

³⁵¹ Bill Cockerham, “Blacks Reconsider Athletic Boycott Plans,” *Daily Californian*, April 1, 1968.

³⁵² Bill Cockerham, “Basketball Coach Herrerias Quits,” *Daily Californian*, April 12, 1968.

³⁵³ The protestors were John McGaffie, Paul Williams, Jerome Champion, Bob Darby, McKinley Parker, George Harris, Jimmy Mack, Jimmy Coleman, Travis Tatum, Johnnie Williams, and Ron Brown.

³⁵⁴ Letter to Earl Cheit, written by Myron Alexander, May 21, 1968, Cu-149, Box 136, Office of the Chancellor Records, Bancroft Library Special Collections, University of California-Berkeley.

³⁵⁵ Bill Cockerham, “Black Athletes Boycott Practice after Willsey Refuse Demands,” *Daily Californian*, May 16, 1968.

³⁵⁶ Harry Edwards, “Appendix B: The Revolt on Campus; Letter from The Black Athletes at the University of California at Berkeley,” in *The Revolt of the Black Athlete*, (Chicago: University of Illinois Press, 1969), 113.

³⁵⁷ Paul Zimmerman, “16 Negro Athletes Boycott Spring Grid Drills at California,” *Los Angeles Times*, May 16, 1968.

And these include the relative abilities of the various members of the team and the placement of athletes in the various positions.... I do not believe that these prerogatives are negotiable.”³⁵⁸ Likewise, he had absolute authority to dismiss members of the team. Yet he encouraged the narrative that he had not exerted such authority because to do so would irrevocably harm the athletes themselves, telling the *Daily Cal*, “It will be a tragedy that competition will be denied to some outstanding young men because of their actions. These men, by not reporting to practice, are in effect, removing themselves from the California Football Team.”³⁵⁹ Thus, Willsey legitimized his authority by claiming that the Black players simply could not be trusted to act in their own interests.

Though this protest attracted less attention from the administration than the general protest earlier in the year, it still made national news. Willsey’s actions placed the Black athletes on the defensive. Though he did not seek to expel the athletes from the university, it was well within his power to revoke their scholarships, which would have forced them to leave. McGaffie and Irby Augustine, another member of the football team, emphatically denied the “black boycott.” McGaffie stated “We are not boycotting. We are definitely not boycotting and I don’t know how many times I have to say that.”³⁶⁰ McGaffie and other members of the football team asserted that they were in negotiations with Willsey over playing time and other responsibilities, much like organized labor might have claimed. But McGaffie was fighting an uphill battle. Willsey was not just the head football coach; he was the assistant athletic director, the second most powerful person in the athletic department behind Newell. Willsey did make one concession: he would hire an African American assistant coach, John Erby. The Black athletes accepted this compromise, and returned to practice. The team’s 1968 season was successful; they earned three shutouts and held their opponents to 10.4 points a game, earning the name “Bear Minimum.” Success brought hope for change within Berkeley’s athletic department.

Exploiting differences: How the University of California’s administration Separated Student Protest from Student-Athlete Protest

The student-athlete protests at Berkeley were calmer than those at the other sites this dissertation examines, and it was the only site where the student athletes were not permanently dismissed from the team. Berkeley had introduced reforms earlier in the 1960s that allowed protesting students more latitude and protection from arbitrary disciplinary policies. Indeed, Berkeley’s former Chancellor, and current UC president, Clark Kerr, spoke out against punitively punishing students who were arrested in San Francisco for protesting against the Vietnam War, describing punishment by the justice system and by the university as a form of double jeopardy.³⁶¹ Theoretically, protesting black student-athletes would benefit not just from institutions who conceded administrative power to student protestors just three years prior; they would also have a student body that was more supportive of protests than students from other universities.

³⁵⁸ Ray Willsey, In *Daily Californian*, published on May 16, 1968, P.1.

³⁵⁹ *Ibid.*, P.114.

³⁶⁰ Paul Zimmerman, “Solution to Cal Dispute left up to Willsey,” *Los Angeles Times*, May 16, 1968.

³⁶¹ Address by Clark Kerr, “President of the University of California at Charter Day Ceremonies, The University: Civil Rights and Civic Responsibilities.” May 5, 1964, Cu-149, Box 60, Office of the Chancellor Records-1952-2000, Bancroft Library Special Collections, University of California-Berkeley.

The administration's response to the Free Speech movement (FSM) contrasts sharply with how discipline differed between student and student-athlete protest. Often considered the start of student radicalism in the 1960s, it began with 1,000 students occupying Sproul Hall on December 2, 1964, of which 800 were arrested. Many politicians, including the governor of California at the time, Ronald Reagan, attempted to pressure the university to expel students the police had arrested. Strong and Kerr, refused to bow to pressure. Kerr said in a public speech that "[a] rule which arbitrarily provides for expulsion after a given number of arrests or convictions could work grave inequities.... The emergence of a pluralistic rather than monolithic form of society in the United States was no happenstance; rather, it was the inevitable concomitant of our belief in democratic government and the importance of the individual."³⁶²

Students therefore were not automatically expelled for arrest, and would be reviewed at a special academic counsel to review special cases for expulsion. Katherine Towle, the dean of students at the time, explained in a memorandum to the school's faculty and staff: "Our policy on student conduct supports the belief that when a student acts in his role as a citizen and outside the applied authority of the University, he is responsible to civil authorities. The policy protects the student in his role as a citizen without fear of 'double Jeopardy' and is designed to require him to accept the responsibility of his acts."³⁶³ FSM would place these tenets to the test; though the administration did not believe students should be punished twice for protesting, they did not believe that student protestors could protest without regulations. As FSM continued throughout the semester, the administration begrudgingly gave ground. In the process, Strong resigned as chancellor, largely according to pundits because the University felt he was too harsh on student protestors. Kerr also resigned, only to return shortly after his resignation. Kerr's handling of the protests would forever tarnish his reputation, as someone that allowed too much freedom to students.³⁶⁴

Ultimately, the administration admitted defeat and made three concessions to student demands: First, there was to be no regulation of the content of speech, regulations about time, place, and manner of political activity were to be only such as are necessary for the normal functioning of the university, and, in the area of political activity, student discipline was to be in the hands of the faculty who were to have final authority.³⁶⁵ Second, students would not only be allowed to use Sproul Plaza for political activity, the administration unshackled control over how students expressed political views in general. Students who participated in the protest were not even suspended; Martin Myerson, the acting chancellor after Strong resigned, disagreed with how student protestors were disciplined under the prior administration. Third, as a result of the protests, the university implemented a policy that allowed students to appeal suspensions, even if they were

³⁶² Ibid.

³⁶³ "Memorandum to Staff: Guidelines for handling petitions from students involved in court trials," written by Katherine Towle, May 25, 1964, Cu-149, Box 60, Office of the Chancellor records-1952-2000, Bancroft Library Special Collections, University of California-Berkeley.

³⁶⁴ Ray Colvig, "It's a Big Surprise to Me: The Governor and Kerr's Firing," *Turning Points and Ironies: Issues and Events-Berkeley, 1959-67*, (Berkeley: Public Policy Press, Institute of Governmental Studies, 2004) P.185.

³⁶⁵ Bettina Aptheker, "The FSM: An Historical Narrative" *Online Archive of California*, 21, <https://oac.cdlib.org/view?docId=kt709nb23t;NAAN=13030&doc.view=frames&chunk.id=d0e77&toc.depth=1&toc.id=&brand=oac4>.

arrested for criminal offenses outside the university, and a dedicated appeals committee would hear their cases.

Student-athlete protesters were not protected by these established regulations. Berkeley's approach to its protesting student-athletes fit snugly with how 19th and twentieth century architects of college sports thought about how student-athletes should be managed. As Walter Camp, John Heisman and Glenn Warner argued nearly a half century earlier, coaches were supposed to possess absolute authority over their domains, which extended into disciplinary policies for on field and off the field behavior.

The appeal process for challenging suspensions or dismissals applied only to disciplinary measures that would have directly barred students from attending class; although removal from the team on which their scholarship was based would effectively remove student athletes from their schools, they had no appeal process for suspensions or dismissals from the teams. Newell had affirmed Herrerias was in his rights to suspend Presley for being late for practice."³⁶⁶ Though Newell suggested that Herrerias should discipline student-athletes consistently, he did not mention that Herrerias's power should be questioned or monitored in any way. Arleigh Williams, an investigator for the committee, agreed, noting that Presley's intransigence violated the coach's "orders."³⁶⁷ Though Williams later stated that Herrerias was wrong for suspending Presley, and "had" to reinstate him, Williams did not order Herrerias to reinstate Presley, nor advocated for any significant changes to disciplinary policy for the Athletic Department. Williams noted Herrerias had to reinstate Presley for moral reasons, not because of any institutional recourse he, or the other deans could leverage.

The committee thus legitimized the intrinsic power claimed by coaches that stemmed from late nineteenth century labor management principles. By not questioning the source of authority that coaches claimed in order to properly manage a team, the committee allowed coaches to maintain a separate disciplinary regime for student-athletes. By the late 1960s, the authority of coaches was institutionalized into custom, fitting with broader trends of a growing amount of control that management possessed over labor.³⁶⁸ The power of the coach, and by extension, the faith in said coaches' judgement had become so prevalent, that in 1967, the Handbook of the Athletic Association of Western Universities did not contain a section with guidelines on how coaches should discipline athletes, let alone potential means of redress if the coach disciplined an athlete improperly.³⁶⁹ A coach could discipline his athletes autocratically without fears of reprisal at the conference level.

Newell embraced the coaches' prerogative, believing that coaches possessed inherent, legitimate authority over the respective team that they could wield in nearly any manner they deemed fit. Hence, Newell was not fond of student movement/protests that challenged authority:

³⁶⁶ Pete Newell, "UC Berkeley athletics and a life in basketball: oral history transcript: coaching collegiate and Olympic champions, managing teaching, and consulting in the NBA, 1935-1995 / Peter F. Newell: Athletics and Racial Conflict, 1968," *Regional Oral History Office, The Bancroft Library, University of California*, 1994, P.235.

³⁶⁷ Arleigh Williams, "Dean of Students: The Free Speech Movement and the Six Years' War, 1964-1970," an oral history conducted in 1988 and 1989 by Germaine LaBerge, *The Regional Oral History Office, The Bancroft Library, University of California, Berkeley*, 1990.

³⁶⁸ Kim Phillips-Fein, *Invisible Hands: The Making of the Conservative Movement from the New Deal to Reagan* (New York: W.W. Norton & Company, 2009).

³⁶⁹ Thomas J. Hamilton, *Handbook of the Athletic Association of Western Universities*, 1967.

“Of course, in those days, I used to get very very upset at our faculty, because they just turned over faculty meetings to this minority dissent group, and they would invoke these various edicts that pertained to what was happening on that campus. Most of them were very pro-dissident, very anti-straight student athletic type of thing.” By extension, Newell did not like the Black Student Union, calling them the “Black Group,” “dissident group,” or “Black Athletic Union thing.”³⁷⁰ Though Newell’s assessment of the Black Student Union was certainly racist, it also reflects an assumption that student athletes should not have the autonomy to join outside groups because they were likely to be manipulated by “outside forces.”³⁷¹ In particular, athletes were not supposed to be associated with student associations, especially ones that challenged existing power structures.

The university’s power structures did not view athletes as fully students, but as a hybrid between student and labor, an essential laborer but a nonessential piece of the student body. The black athlete protest was a labor protest to be quashed. As Newell recalled, if the Black football players athletes even attempted a boycott, they would have been removed from the team, and university: “If they wanted to boycott, they could have boycotted. We were prepared to go with our white athletes next year in football, and I told them that. And we would have. We wouldn’t have done very well. But the alumni would have been at that point kind of happy because they were upset.”³⁷² Newell here supported Willsey’s assumptions that the coaches’ power was paramount, even if it harmed the team’s prospects to win games. Thus, if Willsey judged that the Black athletes needed to be permanently removed, like a foreman with complete control over hiring and firing, he could have fired the Black athletes with support from Newell.

The same logic the university employed when it condemned the athletic department’s racism in 1963 prevailed, and the regulations that protected other students had no force for student-athlete protesters. For example, the Committee’s first suggestion was that the Athletic Department should enlist Black athletes to assist in educational, social and other meaningful functions of the university. In a vacuum, this was not an outlandish suggestion. However, the black athlete’s first complaint about the athletic department was racial prejudice and discrimination persisted throughout the athletic department; because the Committee did not have the power to force the athletic department to enact this suggestion, the athletic department simply refused to enact it. The Committee’s third suggestion, that the Department should develop a program for coordinating its academic advising functions with the faculty advising programs available to other University students, was not implemented until the late 1970s, years after the protestors graduated.

Different strokes, same Folk: How administrators viewed student-athletes as laborers.

Universities adopted an increasingly corporatized structure by the mid twentieth century; however, athletic departments possessed a corporatized structure before most universities did.

³⁷⁰ Pete Newell, “UC Berkeley athletics and a life in basketball: oral history transcript: coaching collegiate and Olympic champions, managing teaching, and consulting in the NBA, 1935-1995 / Peter F. Newell: Berkeley’s Image in the Sixties and Recruiting, 1968,” *Regional Oral History Office, The Bancroft Library, University of California*, 1994, P.230.

³⁷¹ Ibid.

³⁷² Pete Newell, “UC Berkeley athletics and a life in basketball: oral history transcript: coaching collegiate and Olympic champions, managing teaching, and consulting in the NBA, 1935-1995 / Peter F. Newell: Athletes and Racial Conflict, 1968,” *Regional Oral History Office, The Bancroft Library, University of California*, 1994, P.236.

Though many early twentieth century administrators decried professionalization of amateur athletics, in their desperation to separate student-athletes from professional athletes, they modeled athletic departments after corporations and athletes after employees. The Pacific Coast Conference's regulations provide a lens through which to view student-athletes' transmutation into employees that started in the 1930s and continued into the 1950s. By the 1950s, student-athletes reported to management every time they clocked into their work assignment; records from 1957 include this statement from the Rules of the Far Western Intercollegiate Athletic Conference: "It is extremely important that [student athletes] report each day that you work to the men in charge of the area in which you are assigned so that you are receiving proper credit for hours worked."³⁷³

Berkeley's athletic department's structure shifted in the 1950s in response to allegations by the Pacific Coast Conference that it illegally subsidized athletes. Greg Engelhard, the director of athletics at the time, sought to address the problems by restructuring the work program more like a corporation. The labor of student-athletes was integral to the athletic department; rather than hire maintenance teams to repair playing fields, universities throughout the country, including Berkeley, employed student-athletes. Athletes worked other jobs throughout the 1950s; in 1953, Robert Johnson noted that athletes worked a variety of jobs, including "cleaning the stadium after football games, assisting in the care of the athletic fields, and assisting the athletic trainer."³⁷⁴ These jobs were traditionally done by athletes, but as Johnson notes in his report, student-athletes could theoretically be employed in a myriad of different areas, so long as they were paid the "bear minimum" wage of 1 dollar an hour to avoid union pressures.³⁷⁵ Johnson thus used the labor of student athletes to circumvent unionized laborers and control costs. The labor performed by student-athletes in the 1950s were essentially unchanged in the 1960s. In the late 1960s, Berkeley's athletic department only provided one full scholarship, and thus almost all of the school's athletes had to work for partial scholarships. A study by a Berkeley student conducted in 1968 found that the work program consisted of 114 jobs at 2 dollars an hour and that members of the tennis, football, basketball, track, and swimming teams held the jobs.³⁷⁶ The NCAA had no firm regulations surrounding labor conditions, or payment, noting only that schools could give full scholarships to student athletes, preferring that conferences to create their own regulations.

Many within Berkeley's athletic department saw athletes as essential sources of labor in the 1960s. This fit within the ideology suggesting that student athletes should be prepared for the labor market. Brutus Hamilton, the athletic director at Berkeley during the 1950s, described this ideology in an interview in 1967 centered around conformity and athletics. He told the reporter that what separated students from student-athletes was how much athletes needed to work throughout their time at the university: "And the athlete just by the very nature of the thing, he has to be fit. He has to keep regular hours. He has to lead a temperate life. He has to fit into certain

³⁷³ Rules of the Far Western Intercollegiate Athletic Conference, Supplement to the Report of the Subcommittee on Athletic Recruitment of the affiliations committee, appendix 1 of the minutes of the April 26, 1957, meeting of the committee on affiliation with secondary schools, April 26, 1957, Cu-149 Box 33, Chancellor's records, Employment of athletes, Bancroft Library Special Collections, University of California-Berkeley.

³⁷⁴ Robert Johnson, "ASUC and the Employment of Athletes," March 5, 1952, CU-5, Box 6, folder 16, in University of California Office of the President records, 1885-1975, Bancroft Library Special Collections, University of California-Berkeley.

³⁷⁵ Ibid.

³⁷⁶ Student papers on University of California, Berkeley, sports and other subjects related to athletics, 1968-1973. Cu 67.1 Box 1.

disciplines. They are voluntary disciplines, for the most part, but a student has to steel himself to do this if he wants to excel, just like a quarter-miler must do a certain amount of hard work, or a distance runner must do a certain amount of hard work and they must do it regularly, every day.”³⁷⁷ Hamilton doesn’t simply compare athletes to an employee; he notes that the culture of athletics, and the nature of athletics centers around work both on and off the field of play. This centrality of work bled over into how the athletic department decided to handle protests by student-athletes. Newell did not hide the fact that he viewed these athletes as laborers: “In our recent racial problems with the Black athletes a strong point that was made by these athletes was the continuance of the work program. I should like to point out that they did not wish the discontinuance of the work program for Black athletes alone, but for the entire athletic program... there are problems involved should we discontinue our present work program. Our athletes defray by their work commitment approximately 60,000 dollars of necessary labor in the upkeep and repair of the facilities. The discontinuance of this work program would mean that we would have to find somewhere 60,000 dollars to offset this loss of labor.”³⁷⁸

In conjunction with the labor-saving costs, many argued that the work program provided invaluable benefits for an athlete’s educational endeavors. Newell vociferously argued against the black athlete’s demands to end the work program because it not only would force the university to pay for labor, but it would harm student’s focus:

“With the exception of our permanent field supervisors and our summer work program, the upkeep, care and cleanup of our facilities are underwritten by our work program. The savings in our costs for the same amount of union labor are astronomically great. It is possible that the free ride scholarship program would mean 100,000 dollars in additional costs to our Department..... I believe in the work program and always have. It gives the student-athlete a sense of independence and self-esteem he wouldn’t otherwise receive. The athletes who fulfill their work requirements with little or no problem seem to be the better students. I don’t know of one instance in my years here at California that any athlete’s academic progress was jeopardized by the work program. It made some a little busier, but busy students have fewer problems than the ones with idle time.”³⁷⁹

Willsey, agreeing with Newell, did not attempt to hide his views that athletes were essential labor. He noted that, not only that the work program was an absolute necessity for the athletic department, but that it was crucial for the academic development of the young men under his charge, “The work program is a necessary part of our total program and I don’t believe it is harmful.... I have yet to see a boy fail because of his workload- the boys who fail academically are generally the ones who have worked few hours. Also, the work program takes away the free ride philosophy and I believe gives an athlete a sense of pride in himself and the student body a

³⁷⁷ Brutus Hamilton, *Student Athletics and The Voluntary Discipline*, Conducted by Edward Franklin, University of California Bancroft Library/Berkeley Regional Oral History Office, 1967 P.39.

³⁷⁸ Memo about the Athletic Department’s work program, written by Pete Newell, April 22 1968, Cu-149, Box 136, Office of the Chancellor Records, Bancroft Library Special Collections, University of California-Berkeley. For conversion, 60,000 dollars in 1968 is roughly 450,000 dollars in 2019 dollars.

³⁷⁹ Ibid.

pride in the athlete for having worked.”³⁸⁰ To the athletic department and the university at large, student-athletes were not students but essential labor, and thusly blocked access to remedies available for student protesters.

The Chancellor’s office recognized the importance of the work program as well, replying to Newell that it was impossible for the university to end the work program in 1968. Hence, the work program not only was still in existence with very little discussion of how it could be repurposed to benefit athletes, the summer program was not revamped because the Department could operate outside of the University’s non-discrimination policy if it chose to, so the recommendation that they operate inside of the University’s non-discrimination policy was not necessarily guaranteed. The Department also kept its housing policy unchanged, noting that the Bay Area was quite challenging for housing players. Many members in the athletic department, Newell and Willsey included, argued that the Athletic Department was already in the process of “implementing” many of the Committee’s recommendation, with questionable motivations and results.

Perhaps the most interesting and blatant manipulations of the Department came with the Committee’s recommendations about the work program and housing for athletes. The eighth recommendation stated that the department’s job-recruiting program be administered consistent with the University’s no discrimination policy, with the eleventh recommendation stating that The Department, in Conjunction with the Chancellor’s Faculty Athletic Representative to the AAWU, examine the merits of the work subsistence requirement.³⁸¹ However, Newell and Willsey both endorsed the work program, for economic and moral reasons. They weren’t the only ones that believed this, though as the Athletic Director and Assistant Athletic Director respectively, they possessed enough sway on their own to keep the work program.

Master Manipulators: How the University used divisions between students and Student-Athletes to restrict concessions.

By 1968, Berkeley’s general student body gained a reputation for being infamously anti-establishment. One thing that the general student body and establishment agreed on was that many student athletes were not, and should not be considered, full students. White students – athletes or not – viewed black student-athletes as something less than students, weakening the bargaining power that these student athletes possessed over the university. Roger Tannenbaum opened the explosive debate by attempting to argue that many of the black basketball players were not academically prepared to apply to Berkeley, but received special academic treatment through the 2 percent rule: “Some of the black basketball players have gained access to the university as a result of the “2” percent program... These students are unable to survive at this University academically. Their courses have been selected assuring them the easiest classes available.”³⁸² The two percent rule was a rule passed at Berkeley stating that 2 percent of accepted applicants did not

³⁸⁰ Discussion about the Athletic Department’s work program, written by Ray Willsey, 1968, Cu-149, Box 136, in Office of the Chancellor Records, Bancroft Library Special Collections, University of California-Berkeley.

³⁸¹ Report to Pete Newell, From Fact Finding Committee appointed by Chancellor Rodger W. Heyns, March 25, 1968, Cu-149, Box 136, Office of the Chancellor Records, Bancroft Library Special Collections, University of California-Berkeley.

³⁸² Bill Cockerham, “Black Athletes Demand Herrerias’ Removal,” *Daily Californian*, January 24, 1968.

have to fit university requirements. This was a very broad rule, with the only stipulation being that the university needed to provide additional funding to these students.³⁸³

Initially, the two percent rule was designed to increase enrollment of minorities, and students with particular hardships, such as sickness, or injury during their high school career that prevented the student from reaching their full academic capacity. However, the two percent rule also helped facilitate enrollment for athletes that did not fulfill university requirements. Clive Condren, an assistant to the University's Vice-President for educational relations, noted that "the university uses the 2 percent allotment is used for a variety of reasons, including to students interested in athletics, those with illnesses in high school that lowered their grades, or students from foreign countries that possessed language deficiencies."³⁸⁴ For students, these stipulations created seemingly false dichotomies: how could athletes fall into a category with students that suffered legitimate hardships? How could seemingly qualified students fall into the same category as athletes, whose qualifications were questionable at best? Robert Tannenbaum, a tutor for many athletes, echoed this sentiment: "My criticism of the 2 % plan is that it ought not be used to permit admission of any student, white or black, who has demonstrated that from aptitude examinations and secondary school performance that he is not suited for the rigorous academic Berkeley environment."³⁸⁵ Tannenbaum's statements answered questions from many parts of the student-body: who would know better whether these Black athletes were qualified students or not than one of their tutors? Hence, many white students were not interested in supporting student-athlete protest because they felt they were not fully students.

Student ambivalence into the affairs of student-athlete protest was reflected in the lack of accompanying protest. In the late 1960s, many students at Berkeley supported other student protestors; students at the University of California were particularly active in supporting fellow student protestors. For example, in April of 1968, numerous students, including most of the Mexican student population organized a rally supporting students in Mexico City protesting the 1968 Olympics in Mexico City.³⁸⁶ This was a worthy protest to support: many people in Mexico City lived at near subsistence level while the Mexican government splurged to host the 1968 Olympics. As the San Francisco Express Times reported, on the first day of the protest, Mexico City police injured roughly 500 student protestors, and killed three.³⁸⁷ Additionally, in June, Berkeley students organized a protest around French students and workers protesting free speech, as seven socialist student groups, and four "workers groups" were banned by the French Council of Ministers. Berkeley students had a busy spring; a strike committee organized an anti-Vietnam protest for late April, as reported by Debbie Heintz.³⁸⁸

However, as Rudy Andrews eloquently notes that enthusiasm at Berkeley surrounding protest only extended towards student protests around the world and not towards student-athlete protest at Berkeley: "They (students) have an inconstant attitude towards protest when they failed to protest racism on the front steps with Cal's athletic department."³⁸⁹ Perhaps Andrews recognized

³⁸³ Debbie Heinz, "2% rule Raise Conditional on Additional Financial Aide," *Daily Californian*, February 22, 1968.

³⁸⁴ Ibid.

³⁸⁵ Robert Tannenbaum, "Letter to the Ice Box," *Daily Californian*, January 29, 1968.

³⁸⁶ "Students Here Support Mexico City Protestors," *Daily Californian*, March 1968.

³⁸⁷ Ibid.

³⁸⁸ Debbie Heintz, "Students Plan Anti-War Strike," *Daily Californian*, April 3, 1968.

³⁸⁹ "Dubois Rally Considers Minority Rights, Racism," *Daily Californian*, February 19, 1968.

how students felt towards black student athlete protest because he read Bill Cockerham's piece on Rene Herrerias, in which he described the black student protest as a "revolt," and argued that Black athletes performed better with a firm disciplinary hand.³⁹⁰ Though this flew in the face of the idea of the Free Speech Movement, which argued that students were capable of autonomous political activity in conjunction with academic excellence, Cockerham felt that the protesting student-athletes were not fully students, but distinctly Black hybrids between student and worker.

Because black student-athletes could not obtain a sizeable minority, or majority of student pressure, the athletic department felt little pressure to change institutionally. As a result, the department and coaches retained authority over student-athletes, often leveraging their authority to place black student-athletes in compromising positions. A pertinent example of the disconnect between the Athletic Department's vision of their solutions and the racism the Black athletes protested against was the participation of four members from the indoor track team in the New York Athletic Club's (NYAC) track meet in February 1968, after the Black athletes initiated their protest and stipulated their demands. In 1968, NYAC celebrated its 100-year anniversary of its founding; in those 100 years, not only did it tacitly prevent African Americans from obtaining membership, it also prevented African Americans from competing on its teams.³⁹¹ In those 100 years, however, the NYAC became the most prestigious track club in the United States. Many universities resisted the call of the NYAC, and rejected the invitation entirely because of its racist history. All three military academies were ruled out by the Department of Defense, citing racism in the NYAC as the chief factor.³⁹² Nearly all of New York City's public high schools refused the high school invitational at NYAC, citing racism as the chief factor.

Yet, Newell, along with the four runners participating in the meet, argued that since the race itself was integrated, NYAC could not possibly practice discrimination against minorities. Sam Bell, the track coach, argued that discrimination is fine, with him stating that though he personally disapproves of discrimination, "everyone has the right to associate with whomever they please."³⁹³ Bell further elaborated that the athletic department decided to attend the track meet under the "spirit of competition."³⁹⁴ Bell had not bothered to read the bylaws of the NYAC, and was assured by the chairman that the event, and by extension the club, was not segregated. The athletic department's position was further supported by white athletes on the track team. Pat Weedle, a senior on the team, argued in the *Daily Cal* that one can have whichever beliefs that they choose, though they have no right to impose these beliefs on others.³⁹⁵ Ironically, he contradicts himself because the NYAC imposed their segregationist beliefs upon Black athletes by refusing them onto the team or allowing them admission into the club membership. Weedle's argument spoke for itself. It also speaks to how disconnected the athletic department was from its black student-athlete population.

³⁹⁰ Bill Cockerham, "On the Subject of Rene Herrerias," *The Daily Californian*, Apr. 2, 1968.

³⁹¹ Jack Scott, "Letter to the Editor," *Daily Californian*, February 22, 1968.

³⁹² *Ibid.*

³⁹³ Sam Bell, quoted in Andy McGall, "Coach Answers change of 'Supporting Prejudice,'" *Daily Californian*, February 23, 1968.

³⁹⁴ *Ibid.*

³⁹⁵ Pat Weedle, "Letters to the Editors: Track Team Member Defends Participation," *Daily Californian*, February 22, 1968.

Conclusion

Bob Presley, John McGaffie, and Bob Smith lead the first protest by Black athletes in 1968, an explosive year for protesting athletes at universities. They, perhaps, were the most fortunate: all three were able to continue their careers as collegiate athletes without severe reprisals from the athletic department. Presley would later become a professional athlete with a tragic career arc: he drowned in 1975, which was ruled a suicide.³⁹⁶ McGaffie and Smith had very successful collegiate careers, and lead the football team to an extremely successful season, the most successful of Willsey's career at Berkeley.

Companies often compromised with organized labor in a myriad of ways in order to reassert control. Ronald Filippelli notes that by the 1950s, companies were able to subvert collective bargaining agreements by raising prices at a higher rate than wage increases.³⁹⁷ Therefore, companies retained an inherent edge against labor, as with every wage increase, prices would increase, allowing companies to pass price increases upon "overdemanding" laborers.³⁹⁸ General Motors was perhaps the most effective manipulator, as their sheer size and market control allowed it to set prices by executive decisions, not by actual market conditions. For example, GM's extraction of the concession that wages should be determined by "objective economic factors" not by political power in exchange for pensions, health insurance and a 20 percent increase in wages was one of the most influential compromises of the 20th century.³⁹⁹ Though this was beneficial on its face, labor historians noted that this compromise removed the autonomy of labor and placed it in the hands of capital.

The reforms that Berkeley promised its protesting Black athletes were not on the same scale as General Motors, but they functioned similarly in kind. Though the Committee recognized many inequities within the athletic department, it still allowed-or was forced to allow-the athletic department to remedy these inequities with almost no oversight from any other administrative body. That autonomy allowed the athletic department to use student division to its advantage. The department realized that, because the student body was fractured between demands from black student athletes, and the general student body as a whole, they could simultaneously block meaningful reform and introduce reforms that were unenforceable by the administration without reprisal.

However, though their attempts at organizing protests were successful, the university were able to negate any attempts at reform by labeling student athletes as laborers, not as protesting students. By doing so, the university, particularly the athletic department, was able to employ pseudo-reforms that neutralized the protesting Black athletes. Though Smith, Presley and the rest of the Black athletes would retain their ability to play, they would have to do so in an environment thoroughly unsuited for them as Black men.

³⁹⁶ Josephine A. DeLapo, "Almost a Famous Person," *Library Journal* vol. 105 (January 1, 1980), 117.

³⁹⁷ Ronald Filippelli, "A Tolerable Accommodation," in *Labor in the USA: A History* (New York: Random House Press, 1984), 243.

³⁹⁸ *Ibid.*, 244.

³⁹⁹ Nelson Lichtenstein, "A Labor-Management Accord"? *State of the Union: A Century of American Labor, Revised and Expanded Edition*. (Princeton: Princeton University Press, 2013).

Chapter 6: Diplomacy was an Illusion: Student-Athlete Protest, Compromise and Repression at Oregon State University 1969-1970

Introduction

At the height of a Black student-athlete protest in the spring of 1969, Oregon State student representatives released a statement supporting the student athletes that echoed the hallowed mission of the university: “Oregon State exists for the transmission of knowledge, the pursuit of truth, the development of students and the general well-being of society. Free inquiry and free expression are indispensable for the attainment of these goals.” Students were not the only ones who supported the protesting Black athletes. On February 29, 1969, the American Federation of Teachers (AFT) wrote a press release supporting the student-athlete protest at Oregon State, explosively arguing that the Athletic Department is not a kingdom unto itself, “Human rights and civil liberties must not be set aside by an autonomous, feudal empire that tries to impose autocratic values upon the students. Athletes are human and students, not serfs or numbers.”⁴⁰⁰

Though these were lofty, impressive statements by Oregon State’s student representatives and the AFT, attempting to pierce the negative space the athletic department was enmeshed within and apply principles of free expression to the athletic department would result in a titanic struggle between the university administration, the athletic department, Black athletes and the Black Student Union. Throughout the spring semester in 1969, Black Student-athletes, student protestors, and the Black Student Union protested against a decision made by head football coach Dee Andros that centered around managing a player, Fred Milton’s beard. On February 25, 1969, Andros told Milton he needed to remove his “Van Dyke” beard to fulfill the athletic department’s “neatness” requirement or lose his athletic scholarship.⁴⁰¹ This was effectively an ultimatum in which the punishment would be expulsion without the review processes that usually accompany an expulsion: not only did Milton say he could not continue his education without financial support from the athletic department, Milton’s scholarship was not dependent on more objective standards like grades in the case of academic scholarships. Rather, it was centered around the much more slippery and subjective “coaches’ prerogative.” Such ideological and epistemological separation was achieved because athletic departments, in the minds of many administrators and coaches, *was* a separate space within the university.

The athletic department’s tactics were not universally accepted within the administration. Unlike their counterparts at Berkeley, Syracuse and Wyoming, the Black Student Union played a far more central role protesting against the actions of the athletic department. With the consent of the athletes, the BSU took the conflict within the athletic department and extrapolated their grievances to nearly all African American students on campus. Like Black Student Unions across the country, they structured their arguments through the lens of human rights; for student-athlete protest, this lens was unique to Oregon State, and was relatively effective. Uniquely amongst Berkeley, Wyoming and Syracuse, Oregon State’s administration compromised with student-athlete protestors; even at Berkeley, the administration did not provide nearly as many concessions that would challenge how the athletic department and coaches would actively manage players as Oregon State did. The administration entrusted a committee that would review disciplinary

⁴⁰⁰ Statement of Floyd B McFarland, February 26, 1969, RG 032, Administrative Council Documents 1961-1969, Oregon State University Special Collections, Oregon State University.

⁴⁰¹ Ibid.

decisions made by coaches during the season if a student-athlete had a complaint that was not resolved to both parties' satisfaction.

Though these changes sound minor, they were enormous steps in the context of the autocratic power coaches and athletic departments usually possessed over athletes. Yet, the university administration did not challenge the core authority that the athletic department possessed over student-athletes during the course of the season: that coaches and athletic department had "prerogative" over student-athletes' conduct, behavior and disciplinary policies, a prerogative that was grounded within twentieth century epistemologies about labor management and strengthened by the negative space that the athletic department was enmeshed within. Student-athletes were to be governed by policies influenced by labor management strategies of industrial capitalism, not by policies for fellow students of the 1960s.

The protest at Oregon State University during the spring of 1969 was unique in other ways as well. Unlike Wyoming and Syracuse, Oregon State's athletic department did not resemble a company town, where coaches possessed nearly unilateral authority. Andros did not strip Milton's constitutional protections and rights as a student without pushback. Rather, Oregon State's department took the form of a more standard twentieth century corporation. Oregon State's athletic department did allow student-athletes a certain amount of representation: coaches often invited student athletes to participate in decision-making around hair policies and some dress policies. Yet, the end result was similar to results at Wyoming, Syracuse, and Berkeley: coaches still possessed intrinsic authority over disciplinary policies and the right to dismiss players unilaterally. In particular, Andros's authority to unilaterally dismiss players for arbitrary reasons are similar to how managers and foremen managed labor in the early twentieth century. Though they differed in tactics, Andros and managers throughout the twentieth century did possess crucial similarities: both were able to legitimize restricting or removing First Amendment constitutional protections under the guise of providing much-needed discipline to their employees and both were able to navigate effectively through regulations to maintain their authority over employees.

Andros' arguments also fit snugly in the context of racial capitalism: ideas of race, labor and capitalism swirled within the university about how to manage Black athletes. Though Andros, and the department's arguments seemed race-neutral, race and Blackness dominated discussions of how to discipline Milton, and alternatively, how to handle, and separate Black student-athletes from Black students.

The protests against the athletic departments' policies would challenge the department, Black student-athletes, Black students and the university in a myriad of ways. Challenging the department's policies was so difficult because protestors challenged half of the equation: they framed their protests through the lens of human rights, which was both true and incomplete. The policies that coaches and the athletic department cited in their defense were steeped in Progressive Era arguments about how to best train and mold labor. By framing Milton's sentence as a process to teach him "self-reliance, dependability and sacrifice," Andros and other coaches at Oregon State framed their policies through the lens of decades of historical precedent. Andros and the athletic department tangibly benefitted from Progressive Era theorists' arguments that athletic departments should remove itself from the university and operate only tangentially to the general university apparatus. This process, which occurred over the course of a forty-year period from 1890 to 1940, created the negative space the department would use to unilaterally discipline student-athlete protestors. This spatial arrangement is essential to understand why the athletic department

increasingly mirrored a corporation in the twentieth century, how they were able to treat student-athletes like labor throughout the twentieth century, and remain a significantly powerful force, despite multiple departments' opposing their specific policies.

Though student-athlete's labor became ingrained within the culture of the department, Oregon State was not immune from reforms occurring throughout the country. Oregon State, like other athletic departments throughout the country, attempted to restrict control of university athletics to upper management of the athletic department and university management. This process would take a unique twist for Oregon State, however. Oregon State's athletic department wouldn't simply mirror a corporation like other athletic departments in the twentieth century did. They would quite literally become one.⁴⁰²

Oregon State's athletic department was chartered as a corporation in the mid-1930s. Oregon State's athletic department's transformation into a structure managed like an industrial capitalist corporation began in 1930, when the department filed for articles of incorporation. The corporation, in the eyes of the athletic department, had one major purpose: to provide an organization to sponsor, control, administer, and monitor intercollegiate athletics at Oregon State.⁴⁰³ Controlling and administering the department would be broken into four main segments:

1. To enter into, make, perform and carry out contracts of every sort and kind with any person, firm, association, corporation, private, public or municipal, or body politic.
2. To enter into contracts or arrangements with any government or authority national, state, municipal, local or otherwise, conducive to any of the purposes of this corporation, and to obtain from such government or authority any and all rights, easements, privileges, subsidies, gifts, franchises, charters, grants, or concessions relating to or for the promotion or protection of such purposes; to carry out, exercise, comply with and enforce the same; to sell, lease, assign, pledge, hypothecate or otherwise dispose of the same or any interest therein to others, where such sale, lease, assignment, pledge, hypothecation or other disposal shall be lawful under the laws of the governmental power granting the same.
3. To borrow money and issue notes, bonds or certificates of indebtedness to carry out the objects and purposes of the corporation.
4. To rent, lease, hold, own and acquire such real and personal property as may be necessary or convenient for the use of the corporation, and to sell, mortgage, pledge and dispose of the same.⁴⁰⁴

Each segment reflects how Oregon State's athletic department took on the appearance, authority, and logics of a corporation. Though this corporation was an arm of the overall university, its mere existence necessitated a separation of the athletic department away from the university apparatus. Perhaps more importantly, each segment reflected how the department thought about controlling and managing athletics, including the athletes themselves. Incorporation, for Oregon

⁴⁰² Oregon State's incorporation occurred in the context of the rise of incorporation as a form of corporate management in the early twentieth century. Alan Trachtenberg noted that incorporation intrinsically changed the fabric of American culture by introducing new ways that businesses could control labor. Alan Trachtenberg, *The Incorporation of America: Culture and Society in the Gilded Age* (New York: Hill and Wang, 1982).

⁴⁰³ Intercollegiate Board of the Oregon State College, "Articles of Incorporation Of Intercollegiate-Athletic Board Of The Oregon State College," 1930, RG 13, SG 13, Jensen and Young Subject Files, Oregon State University Special Collections, Oregon State University, P.1.

⁴⁰⁴ *Ibid.*, 1.

State, can be placed within the context of the removal of authority from students, and reallocated into the athletic department. Corporatization, for the Board, was the most appropriate way to manage both the department, and the labor that helped support it.

Though the athletic department denied that incorporation would dilute the department's responsibilities and links to the university, ultimately, it foreshadowed how the athletic department would become estranged from the university. By 1950, the athletic department was officially separated from the Department of Physical Education and could hire its own coaches as faculty members, and by 1960, the athletic department was answerable only to the President of the university. This separation occurred hand-in-hand with the department's increasing profitability throughout the twentieth century. In effect, the labor of student-athletes, and the revenue they generated on and off the field, provided the department with critical legitimacy when dictating its policies towards them. In conjunction, the Pacific Coast Conference began to cede disciplinary and regulatory authority to individual universities, allowing Oregon State to implement disciplinary policies with fewer regulations at the conference level.

In conjunction with this separation, Andros' arguments around hair policies fit within a Progressive Era assumption around coaches' hegemony over the health concerns of their athletes. This assumption is essential for understanding the disconnect between Black athletes and the Black Student-Union, on one side, and the Athletic Department on the other. Throughout the early twentieth century, many coaches throughout the country argued that because of their specialized knowledge in their respective sport and their knowledge of the impact that sport had upon student-athlete's bodies, they should dictate specific health policies for their athletes. This specialized knowledge, in the mind of Walter Camp and many other coaches, demonstrated their knowledge of cutting-edge scholarship and research beneficial to both the university and to student-athletes, and thus should have provided an opportunity to join the faculty of their respective universities.⁴⁰⁵ Naturally, these specific policies required immense surveillance over student-athlete life and included the right to determine what student-athletes ate, and determine the length and amount of hair on a student-athlete's body.⁴⁰⁶ Andros' ultimatum to Milton, in the context of the management of student-athletes during the twentieth century, was reasonable.

However, this epistemological framework clashed headlong with Black Radicalism, and the socio-political movement that would be dubbed the Black Power movement. The results of this clash came at a near catastrophic cost: the near extinction of Black life at Oregon State. As a result of the actions of the administration, at the beginning of the 1970 academic year, only thirteen non-freshmen Black students remained out of a student body of over 10,000.

The Awakening of "A Black Consciousness": the Black Student Union and student-athletes, 1968-69

Though Oregon State University seemed like an unlikely place for Black student radicalism because of its geographical location, the campus bristled with energy during the late 1960s. Throughout the country, Black students were increasingly unsatisfied by the slow-moving Civil Rights Movement, and Black students at Oregon State were no different. As a result of this slow-moving change, and spurred on, because of Martin Luther King's Assassination in April of 1968,

⁴⁰⁵ Walter Camp, "Training," *American Football*, (New York: Harper & Brothers, 1891) P.140

⁴⁰⁶ Barry Krauss, & Joe M. Moore. *Ain't Nothin' But a Winner: Bear Bryant, The Goal Line Stand, and a Chance of a Lifetime*. University Alabama Press, 2016.

Black students formed a Black Student Union in November 1968.⁴⁰⁷ In 1968, the plight of Black students was often considered an afterthought by the administration. Perhaps most blatantly, the university administration opposed the creation of a three percent plan designed to increase minority representation.⁴⁰⁸ As Bruce Keys, chairman of the committee on minority student affairs, vociferously argued, “OSU is reluctant and unready to accept the three percent students. The chancellor’s office had to instigate the three percent program. OSU made no move to do it itself.”⁴⁰⁹

In 1969, Black students at Oregon State took aim at the social, economic and political dislocation that integration unwittingly caused. One white professor noted after the assassination of Martin Luther King that integration had significant costs that other white Americans often ignored, costs that involved the suppression of Black political social and economic power, particularly in civic and educational decision making.⁴¹⁰ Some students and faculty at Oregon State concurred, argued that the entire university model hinged upon Black acceptance of white authority. One of the most outspoken persons at Oregon State University, Professor Dr. Clyde DeBarry, argued that Black people needed decision-making power: “Each one of us needs decision making power. For example, you have decided to go to OSU. Black people have to go to college where the white man takes in a certain number of niggers or on athletic scholarships.”⁴¹¹ Most presciently, Dr. DeBarry noted that “Blacks cannot make decisions” in the context of university administration.

In response to the university’s inaction, and more broadly the processes of extraction that sometimes made integration an alienating and dislocating experience, the BSU proposed a program that would transform Oregon State institutionally. As they argued, “This University expects the Black students to come to Corvallis and fit into regularly designed programs that were established for people whose backgrounds ensured them of at least a chance of success. At the end of every quarter, the Black students at this school find their number reduced because the educational system has not provided for their unpreparedness.”⁴¹² The BSU proposed six specific suggestions to help alleviate Blacks student’s woes at the university:

- 1: a provisional plan to help assist Black student’s academic transition into the university if needed,
- 2: a tutoring plan specifically for all Black students,
- 3: a special advisor in the office of the president specifically for Black students,
- 4: A recruitment program specifically aimed at attracting Black students to the university,
- 5: Hire Black Resident Assistants to help alleviate discrimination in housing by white RAs

⁴⁰⁷ “Organization of Blacks is Started,” *The Barometer*, November 8, 1968

⁴⁰⁸ Jan Goddard, “Three Percent Student Topic of Weekly Talk,” *The Barometer*, December 11, 1968.

⁴⁰⁹ Bruce Keys, quoted in Jan Goddard, “Three Percent Student Topic of Weekly Talk,” *The Barometer*, December 11, 1968.

⁴¹⁰ Robert Jones, “Time for Action,” *The Barometer*, December 13, 1968.

⁴¹¹ Janet Godard, “Dr. Clyde De Barry Ok's Black Power,” *The Barometer*, 1968. ruary 6, 1968.

⁴¹² Black Student Union Lists Proposal,” *The Barometer*, January 16, 1969.

6: Reform in the athletic department centered around the Department's restrictive hair policies.⁴¹³

Critically, The Black Student Union didn't simply argue that university needed to employ these policies, they argued that they required direct control over all aspects of their plan. For example, the BSU demanded that they be given complete autonomy over the tutoring program, regardless of which department or campus unit enacted it. Boldly, the BSU claimed jurisdiction over both the hiring and firing of the ambassador to Black students, and when the university needed to create the advisory position, both of which would be under the jurisdiction of the President's Office: "The hiring or firing of this advisor will be with the advice and consent of the Black Student Union. The creation of this office will be made as early in the present quarter (Winter, 1969) as possible."⁴¹⁴ Cheekily, the BSU acknowledged the difficulty in recruiting a Black advisor but advised that the university should simply give a qualified Black student the position until a professional could be found, creating a more permanent solution.⁴¹⁵ Perhaps most boldly, the BSU attempted to claim representation in the university's admissions department *and* their disciplinary apparatus, arguing that a BSU representative should be present on every suspension or admission committee that involved Black students.⁴¹⁶

In 1968, simply one of these policies would have proven difficult to enact. However, 1969 proved a far more bountiful year for the Black Student Union. Far from rejecting these policies, the university actively engaged in discussion with the Black Student Union on how to improve the experience of African Americans on campus and attempted to implement nearly all of their policy suggestions. Both culturally and institutionally, Oregon State's administration seemed to recognize that minorities, in particular African Americans, lacked impact on university administration and took more interest in the lives of Black students on campus. The university began the year with a series of lectures that emphasized the experiences of marginalized persons on campus, highlighted by David Johnson, The Chairman of the Federal Task Force for Student Special Services, who lectured on "The Other American in Higher Education," and Dr. Theodore Brown of Eastern Oregon College, who discussed "Teaching the Disadvantaged: The Communications Gap."⁴¹⁷ The university seemed to have changed its focus and priorities about Black students from a year prior.

In the context of the university's attempt to reach out to improve the lives of Black students, both the BSU and Dr. DeBarry noted how these discussions rarely, if ever included Black student-athletes, notwithstanding the striking reality that they lacked the power to impact decisions made by the athletic department and the department's extractive processes significantly impacted Black student-athletes. The BSU presciently noted that some Black students were forced to cut their hair as a result of policies enacted by the athletic department and individual coaches:

"There have been a number of complaints by Black athletes against the Athletic Department at Oregon State University. For example, reports have been received by this Union that coaches have told athletes to cut their hair or in some other way alter their

⁴¹³ Ibid.

⁴¹⁴ Ibid.

⁴¹⁵ Ibid.

⁴¹⁶ Ibid.

⁴¹⁷ Jo Ann Myers, "Minority Education Topic for Lecture," 1969.

appearance. We, in this Union, feel that it is not the responsibility of any Department on campus to define for a Black student the word "neatness." As long as the length of the player's hair or his general physical appearance does not interfere with his performance in a particular sport, the Athletic Department has no right to dictate to him."⁴¹⁸

In the 1960s, hair rapidly became a socio-cultural demarcation line for Black students at universities, particularly Black women. Historians and cultural theorists have argued that aesthetics, hair included, was vital to the construction of Black identity, and white anxiety over Black people. During the early twentieth century, African Americans were often depicted as beady eyed and thick lipped with wild unkempt hair; these depictions were popular in mainstream culture, such as comic cartoons, in children's stories, and in food, soap and other advertising.⁴¹⁹ White designers often portrayed the hair of the Black subjects as symbols of their supposed disillusionment with modernity, simplicity or savagery.⁴²⁰ By the 1960s, the socio-cultural construction of Black hair had fundamentally shifted with the introduction of the Afro. As Angela Davis poignantly noted, hair's political dimension had never existed with such flair, authority and legitimacy: "Never had a hairstyle struck so much fear into white America as the Afro did during the late 1960s. News bulletins of angry-faced Afro-Americans, violent demonstrations and race riots threw the media into a tailspin of hysteria that succeeded in associating the style with hardcore militant behaviour."⁴²¹

Black hair, especially the Afro, had political dimensions as well. Davis' quote lays bare white insecurity and fear of Black demonstrators wearing Afros, with "militant behavior" as a loose metaphor for potentially violent political demonstrations. Perhaps most critically, many Black Power activist-intellectuals and philosophers argued that natural Black hair, in particular Afros, symbolized their revolutionary struggle against white oppression, global capitalism, and imperialism.⁴²² Finding inspiration in the global struggle of the African Diaspora, Black Power argued that Black people across the country should eschew European aesthetics; Afros signified defiance against the system and association with the movement, while straight hair, most frequently defined as hair straightened through unnatural means such as relaxers and hair straighteners, represented conformity with systems of oppression. Thus, Andros' arguments to regulate Milton's hair did not simply infringe on the human rights of Black athletes. Those arguments also infringed on their ability to identify with contemporary political traditions; Andros'

⁴¹⁸ Ibid., 1.

⁴¹⁹ Paul Dash, "Black hair culture, politics and change," *International Journal of Inclusive Education*, vol. 10, no. 1, (2006): 27-37, DOI: 10.1080/13603110500173183.

⁴²⁰ William L. Van Deburg, *New Day in Babylon: the Black Power Movement and American Culture, 1965-1975* (Chicago: University of Chicago Press, 1992); Maxine Leeds Craig, *Ain't I a Beauty Queen: Black Women, Beauty, and the Politics of Race* (Oxford: Oxford University Press, 2002).

⁴²¹ Angela Davis, quoted in Ben Arogundade, *Black Beauty* (London, Pavilion, 2003); Angela Davis, "Afro Images: Politics, Fashion, and Nostalgia," *Critical Inquiry*, vol. 21, no. 1 (1994): 37-45.

⁴²² Gino Canella, "#BlackIsBeautiful: the radical politics of black hair," *Visual Studies*, vol. 35, no. 2-3, (2020): 273-284, <https://doi-org.libproxy.berkeley.edu/10.1080/1472586X.2020.1789501>.

power, therefore, infringed upon student-athlete's First Amendment right to cultural as well as political self-expression.⁴²³

The constitutionality of Andros' policies did not seem to matter much to the administration, or to the Athletic department. Andros, and other coaches throughout the athletic department, were able to maintain their autocratic control over student-athletes because coaches and athletic departments framed student-athletes as labor in need of training. The department used procedures centered around labor management to suppress student-athlete protest in the 1960s. This was not a new development: the Department consolidated control over the department in the 1950s, arguing that that student-athletes needed moral management, further legitimizing coaches' control over student-athletes.

Consolidating Control: Incorporation and the Athletics Department, 1930-1950

For Andros, and many in the broader university administration, the Athletic Department needed unilateral authority over student athletes to ensure that they grew into responsible citizens and workers. These goals had historical precedent: since the 1930s, many pundits, including the President of the University also argued that coaches required immense amounts of power to perform their educational duties. In order to achieve these goals, the President would carve out a special space in which coaches, and by extension Oregon State's athletic department, could operate without excessive interference. After all, every corporation needed an executive at the top to promote responsibility and profitability.

We can observe how negative space was created most clearly in an editorial written at the University of Oregon that was reported at Oregon State in the 1930s. With an incredible statement that the staff at the *Barometer* thought worthy of a front-cover, an editor at the University of Oregon argued that athletic departments as a general rule required an athletic director who "must be given literally the power of a dictator to go ahead and install his policies and given a certain length of time to accomplish the betterment of athletic conditions at the university."⁴²⁴ The editor continued, framing athletic department's needs for a "dictator" in terms of customer service and hierarchical authority: "A malcontent dissatisfied with athletic conditions does not know whether to take his complaints to the coaches, the graduate manager or the committee... this change is vital to progress and progress is vital to the survival of Oregon athletics."⁴²⁵

Bud Forrester, a writer for the *Barometer*, was swayed by the arguments made for the university of Oregon's athletic department and argued that these changes should take place at Oregon State because centralizing power into a single department and by extension, a single person was a progressive step for the health of athletics at universities, "placing full power and jurisdiction in the hands of Rossen [the athletic director in 1932] was most certainly a forward step. It seems to us that the duties of graduate manager and director of athletics go hand in hand."⁴²⁶ Forrester's opinion differed from the editor at Oregon in a critical way: the director should not be a simple head of customer service, the director needed to be a savvy businessman to understand and direct

⁴²³ Waldo E. Martin, "'Be Real Black for Me': Embodying and Representing Blackness" in *No Coward Soldiers: Black Cultural Politics and Postwar America*. (Cambridge, Mass: Harvard University Press, 2005).

⁴²⁴ "U. Of. O Emerald Proposes Single Athletic Chief," *The Barometer* vol. 30, no. 40, November 30, 1932.

⁴²⁵ Ibid.

⁴²⁶ Bud Forrester, "Collegiate Spotlight: The University of Oregon Takes Spotlight Today," *The Barometer*, vol. 3, no. 43, December 3, 1932.

the finances of the department and possess sufficient managerial skill to handle the department, student objections to the finances of the department, and objections from faculty members. Both writers argued that athletic departments needed a dictatorial figure to manage the department like a corporation would have been managed.

In conjunction with regional and national shifts in how student-athletes should be managed, highlighted by pleas of the two writers above, George W. Peivy, the President of Oregon State, separated athletics from extracurricular activities in 1933 and transferred governing authority to an athletic director, with the support of ten board members. Perhaps most importantly, the President centralized the athletic director's authority by absorbing another position, the graduate manager position, into the director's responsibilities. As a result, the athletic director not only directed budgetary matters within the athletic department, but he also became the head manager of the entire department at large. The athletic director obtained the responsibility of admitting student-athletes into the department, became head of the physical education department and determined, alongside the coaching staff of the particular sport in question, what types of labor student-athletes did to subsidize their education⁴²⁷ Peivy thus carved out negative space that coaches and the athletic department operated within; though the coach or athletic director wasn't given quite the powers of a dictator, they still possessed massive amounts of authority over student-athletes.

The Morality of Athletics or the Morality of Labor: Universities, Conferences and Student-Athlete Labor 1950-1960

By the 1950s, Oregon State's athletic department, and athletic departments across the country gained even more power to regulate and discipline their athletes with the blessing of the conference. This shift occurred in the context of debates over the morality of the student-athlete experience, particularly around the subsidization of student-athletes via athletic scholarships. This ideological shift is vital to understand how negative space was constructed around the athletic department, which legitimized how Andros could discipline student-athletes unilaterally for subjectively moral reasons. Illegal payments for presidents, chancellors, and coaches were not infractions committed because of economic need, but crimes that represented a moral failure of the individual student-athlete, failure that institutionalized bureaucracies needed to correct. In order to correct these moral failures, departments, and coaches would require more authority to correct behavior than ever before.

Throughout the 1950s, many athletic departments attempted to strictly regulate athletic departments and illicit payments to athletes; as noted earlier, many universities installed work programs to regulate the labor of student-athletes. These work programs were regulated by conferences. In their regulations for their conference's work program in 1956, the Pacific Coast Conference strictly regulated both the pay and hours that student-athletes needed to work, "No cash payment shall be made at the end of a month if a student has not worked full time. Lost time may be made up the following month at which time the full cash payment may be made."⁴²⁸

⁴²⁷ Bud Forrester, "Lodell Named Athletic Chairman: New Powers Assumed by Graduate manager," *The Barometer*, vol. 30, no. 62, January 28, 1933.

⁴²⁸ Employment of Athletes, ASUC Athletic Department Work Program Conditions of Employment, 1957, Cu-149, Box 33, University of California-Berkeley University Archives, Bancroft Library Special Collections, University of California-Berkeley.

Additionally, the Pacific Coast Conference even attempted to extend its authority outside of the university, regulating how much other businesses could pay student-athletes, and disqualified student-athletes for generating too much revenue for themselves: “Any student who is, or has been employed by his student body or athletic association at a rate or compensation higher than one dollar and fifty cents an hour, or who thus earns more than 75 dollars in any one calendar month during which he is enrolled in the institution, shall be ineligible to represent his institution in any athletic contest.”⁴²⁹

Despite these stringent regulations, or perhaps because of them, some student-athletes earned far more than the meager rates set by the conference and the university. In 1956, numerous universities circumvented both the conference’s sanity code and university work program rules and subsidized student-athletes illicitly. This was spearheaded by UCLA, which established a full-fledged subsidization program through their alumni network. The University of Oregon, University of California-Berkeley and other universities, however, also illicitly paid athletes in their athletic departments to varying degrees.⁴³⁰ The reaction of both the conference and Oregon State University was to reinforce avenues of control over student-athletes, with the Pacific Coast Conference dismissing student-athletes at UCLA that participated in the program, and other participating universities suspending other athletes for an entire season. Neither the Conference nor individual universities offered a formal disciplinary hearing, or a review process, with the coaches and athletic directors overseeing these programs going largely unpunished.

However, the ethos of the conference’s managerial strategies did not go unchallenged. Some UCLA fans protested that their athletes should not be suspended for their infractions and wrote to Oregon State’s president and member of the Pacific Coast Conference’s disciplinary committee, A.L Strand, to protest the conference’s decision. Perhaps most notably, William Singhoff, a graduate student at UCLA, wrote an impassioned letter to President Strand protesting the suspension of all athletes in the subsidization scandal. Opposing the ideology that coaches and athletic departments were stewards of morality, he argued that the subsidization crisis was a fundamentally economic crisis, not a moral one and needed to be treated as such, “The code must not only be enforced but enforceable and that means realistic. Player allotments should be such that the players can expect to receive room and board at the going rate and a very small sum in addition to cover the purchase of school supplies and other needed items... I truly feel that a great deal of the blame for the present mess may be laid directly at the PCC itself to the extent that it refused to recognize the economic imperatives of the time.”⁴³¹ In conjunction, the author argued that the most extreme disciplinary actions taken amongst players should be cancelled unless the player had a private arrangement with an alumni. Singhoff thus recognized that the university and athletic departments contradicted their obligations as moral stewards by economically handicapping student-athletes.

⁴²⁹ Ibid., 2.

⁴³⁰ Letter to Ervin Hausladen,” written by A.L Strand, Office of the President, Subgroup 6. General Subject File, 1903-1964, Series II. Colleges and Universities, 1941-1959, Oregon State University Special Collections, Oregon State University.

⁴³¹ Letter to A. L Strand, written by William Singhoff, July 2, 1956, Office of the President, Subgroup 6. General Subject File, 1903-1964, Series II. Colleges and Universities, 1941-1959, Pacific Coast Athletic Conference, Oregon State University Special Collections, Oregon State University.

Perhaps more importantly, Singhoff also acknowledged that student-athletes operated within different spatial realities than other students-what I call negative space-and this spatial separation institutionalized inequities between student-athletes and fellow students: “In effect, we see that the athlete has been placed in a special economic category. If he receives an off-campus payment, he is damned to the skies and his college punished.”⁴³² Singhoff contrasted his experiences as a graduate student to student-athletes, noting that he was allowed to earn as much income as he could, while student-athletes were condemned to a life of strict financial control by the university: “As a student, I have an off campus scholarship that pays 30 dollars a month, a part time job and I have a teaching assistantship at UCLA. I am not accused of being a professional student; no one cares what I get, and some might even say ‘more power to him.’ Yet my fellow Bruin, who’s only distinction is that he happens to play football, must either live in an economic never-never land or prostitute himself by breaking the code.”⁴³³

Singhoff was not the only person that identified the roots of the subsidization crisis with the economic dislocation of student-athletes. Tim Cohane wrote a piece examining the scandal that embroiled the Pacific Coast Conference and came to the same conclusion that Singhoff did: the subsidization crisis occurred because the universities could not legitimately pay student-athletes enough to live on. He noted incredulously that a student-athlete’s obligations would require him to defy the laws of space and time: “The work program code was unworkable because no school could field a major football team under its restrictions without cheating openly or covertly to some degree. This was so because there simply were not enough hours on the clock for a player to go to class, study, play football, and fill out an honest time chart on his job... The total hours a student-athlete is expected to log for his weekly schedule is 174 hours. But there are only 168 hours in a week.”⁴³⁴

Constance Thomas, another UCLA alumnus, concurred, but did not criticize the economic feasibility of being a student-athlete. Rather, Thomas’ arguments illuminated another unique way in athletic departments were allowed to operate within negative space: it allowed them arbitrary punishment. To Thomas, the punishments that universities and the conference meted out to student-athletes were inherently unjust because the punishments were not simply arbitrary. In fact, neither entity allowed student-athletes to defend themselves, “As a UCLA alum, I urge that you, as a member of the Pacific Coast Conference, take action to change the athletic code. I feel that the ban presently imposed on the eligibility of the football players has been grossly unjust and should be lifted. The penalties placed on UCLA and Washington should not be levied until the practices of all the schools in the conference have been thoroughly and realistically investigated.”⁴³⁵ Thomas’ arguments reflect an important part of how student-athletes were managed. The Pacific Coast Conference did not simply dismiss student-athletes, but they did so without an appeals mechanism.

⁴³² Ibid.

⁴³³ Ibid.

⁴³⁴ Inside the West Coast, written by Tim Cohane, Office of the President, Subgroup 6. General Subject File, 1903-1964, Series II. Colleges and Universities, 1941-1959, Pacific Coast Athletic Conference (PCAC), Oregon State University Special Collections, Oregon State University.

⁴³⁵ Letter to A.L Strand, Written by Constance Williams, June 16, 1956, Office of the President, Subgroup 6. General Subject File, 1903-1964, Series II. Colleges and Universities, 1941-1959, Pacific Coast Athletic Conference (PCAC), Reel 6.2/6.3, Oregon State University Special Collections, Oregon State University.

Singhoff, Cohane and Williams' critique of the subsidization crisis all highlighted important elements of how the subsidization crisis was a crisis of the conferences' own making. However, all three missed critical parts about how both the Pacific Coast Conference and university athletic programs were structured. From their perspective as coaches and administrators, student-athletes, because of the corruptive power of money within collegiate athletics, needed moral instruction. As a result, conferences provided universities extremely broad latitude within the structure of conference rules to discipline and manage student-athletes in ways they saw fit. Thus, the subsidization crisis, for many presidents and chancellors, could never be a crisis about the economic well-being of student athletes. It was a crisis of space. To them, the subsidization crisis was one of moral failings by student-athletes, one that should be solved by spatially isolating student-athletes. Student-athletes could not be trusted to work for themselves largely owing to the threat of corruption. As a result of these fears, athletic departments were allowed to manage student-athletes in a separate space to stave off perpetual corruption by outside forces.

A.L Strand's response to Singhoff and his discussions with other university presidents reflected these arguments, ultimately leading to a decision about how student-athletes should be managed. Strand acknowledged that athletics in the Pacific Coast Conference did face an economic crisis; however, this economic crisis could not be solved by allowing student-athletes more autonomy.⁴³⁶ In fact, Strand argued that this crisis could be solved by further restricting student-athletes' financial autonomy. Strand noted that the Conference's regulations around the work program were unworkable because they did not provide enough flexibility to account for regional cost differences. This lack of flexibility ultimately caused the subsidization crisis, "Furthermore, I have taken the position that the new allowance to go into effect this summer, that is, 100 per month in the work program, is unfair and probably unworkable. It is more than required for some of us and not enough for the institutions in metropolitan areas."⁴³⁷ However, Strand argued that the program was an improvement from prior regulatory efforts and in order to improve the work program even further, rules should be restructured to remove stipend payments, "It [the work program] is an improvement though and can be modified to make it more equitable. We would rather see it changed so that it expressed not in dollars but in board, room tuition, etc."⁴³⁸ To Strand, equitable outcomes for student-athletes meant greater university control over student-athletes' financial life.

Strand focused far more on the moral implications of the scandal than the financial or economic ramifications. Illegal payments, for Strand and other presidents/chancellors, was not a question of economic need, but a question of moral failure, "If causing athletes to become parties to a fraud, if encouraging them to sign statements of their income for the conference commissioner that leave out the illegal payments that they received, if teaching them to cheat, if these things are looking after their welfare and are not subterfuge then my ideas of welfare and what constitutes

⁴³⁶ Letter to A. L Strand, written by William Singhoff, July 2, 1956, Office of the President, Subgroup 6. General Subject File, 1903-1964, Series II. Colleges and Universities, 1941-1959, Pacific Coast Athletic Conference, Oregon State University Special Collections, Oregon State University.

⁴³⁷ Ibid.

⁴³⁸ Ibid.

subterfuge are all wrong.”⁴³⁹ For Strand, the immorality of fraud, not the underlying reasons for why student-athletes had to lie about their income, proved why student-athletes needed to be specially managed. Student-athletes were uniquely susceptible to negative influences by outside benefactors. This ideology applied even into academic aid.

The conference, at the behest of some universities, even attempted to restrict aid provided to student-athletes for academic reasons. Strand wrote a letter to Victor Schmidt, the Commissioner of the Conference, and argued that a particular award given by Oregon State to seniors for high GPA should not violate the conference’s rules on aid, “What I don’t understand is why we got fined 500,000 dollars because of the Corvallis Kiks Senior Award... the award, of course, went to athletes who were required to have a high GPS. How this was considered illegal with other institutions granting scholarships with a preference for athletes is really too much for my comprehension.”⁴⁴⁰ Though Strand felt that the Conference overstepped in this particular situation, the overreaction occurred in part because of his arguments that student-athletes required strict surveillance and management over their financial lives.

Strand, along with the Presidents of the Pacific Coast Conference, responded to the crisis by arguing that student-athletes needed even more surveillance to prevent moral failures. Nearly anyone associated with student-athletes on university campuses could be investigated if the conference or university suspected illicit payments. The Presidents argued that the conference should “take whatever steps necessary to get the facts in cases of alleged financial aid for athletes. If such action was taken by the conference, and if evidence of illegal activity is presented to the president of the institution concerned, he will undertake appropriate disciplinary action, to the full extent of his authority, against any employee of the University or its Associated Students who may be involved, and will expect the Conference to penalize the athlete even to the extent of declaring him ineligible for his college career.”⁴⁴¹

The Presidents thus argued that the conference needed to simultaneously surveil and investigate student-athletes and persons suspected of financial aid to student-athletes, and the power to punish only student-athletes for discretions. Additionally, the presidents suggested that the conference punish student-athletes in concordance with their own regulations. Student-athletes effectively did not possess an appeal mechanism: alleged violations at the university level would also violate conference regulations as well and neither institution had appeals procedures. As a result, athletic department carved out special space that stripped student-athletes of a fair hearing.

Perhaps the most illuminating case of how far the subsidization crisis’ legacy stretched over how student-athletes were disciplined and managed was Sam Wesley’s dismissal from Oregon State in 1956. According to President Strand and the Registrar, Wesley failed to disclose that he attended both Lincoln University in 1956 and the University of Illinois in February of 1954

⁴³⁹ Letter to Isabel Love, written by A.L Strand, July 30, 1956, Office of the President, Subgroup 6. General Subject File, 1903-1964, Series II. Colleges and Universities, 1941-1959, Pacific Coast Athletic Conference (PCAC), Oregon State University Special Collections, Oregon State University.

⁴⁴⁰ Letter to Victor Schmidt, written by A.L Strand, September 19, 1956, Office of the President, Subgroup 6. General Subject File, 1903-1964, Series II. Colleges and Universities, 1941-1959, Pacific Coast Athletic Conference (PCAC), Oregon State University Special Collections, Oregon State University.

⁴⁴¹ Presidents of the Pacific Coast Conference, “Excerpt from minutes of third meeting of the Presidents of Pacific Coast Conference Universities,” January 5, 1952; republished on August 3, 1956, CU-5 Series 4, Box 6, Folder One, Oregon State University Special Collections, Oregon State University.

and dropped out of both universities. This was a grave error because it not only affected his eligibility, it reflected his moral character as well: “Not only did Wesley attend classes at Lincoln University, Jefferson City Missouri, but it appeared from information given us today by the conference that he was registered as a freshman at the University of Illinois in the previous autumn. He apparently was a student at Illinois until February 1, 1954 when he was dropped.”⁴⁴² Earl Dawson, the university’s president, recalled that Wesley was a student at Lincoln for roughly a month and dropped out: “He registered here February 4, 1954 and he was admitted from Booker T Washington High School, Dallas Texas. He was in school approximately one month. The exact date he left I cannot ascertain. He attended classes at least 3-4 weeks.”⁴⁴³

Because of these instances of “fraud,” Strand, with the support of the faculty athletic representative and the coach, declared Wesley ineligible, “Since he withheld information in his application, he is therefore suspended from Oregon State college, and on the basis of the same information, Glenn Holcomb, faculty representative has declared Wesley definitely ineligible.”⁴⁴⁴ Wesley admitted to withholding information, but argued that he transferred schools because he was “determined to get an education.” In an attempt to justify his past actions, Wesley admitted to the difficulties of college life, and vowed to conduct himself better in the future: “I found the school work difficult, perhaps due to the fact that I had not learned how to study or perhaps due to my inadequate preparation from high school... I know now that the way I went about it was not right, but at the time, I was not aware of the importance of the ethics involved.”⁴⁴⁵ Thus, Wesley, who according to President Strand, and President Dawson was not involved with athletics when he attended University of Illinois or Lincoln University, was removed from the football team for misrepresenting his college career.

This disciplinary action would have been unreasonable for normal students. Wesley was punished simply for dropping out and not disclosing his drop-out status to his coach. As a student, Wesley was not obliged to submit this information; however, as a student-athlete, he was required to submit this information, despite the fact that he was a member of neither the University of Illinois nor Lincoln University’s athletic teams. Wesley also could not submit an appeal to Oregon State’s athletic department, or the Pacific Coast Conference. This punishment illustrated how negative space legitimized the required management of student-athletes. Student-athletes simply could not be thought about and managed like regular students. They needed to be managed and surveilled like labor. This disciplinary apparatus would reveal themselves in more pernicious ways a decade later, when Black student-athletes decided to protest against Andros’ hair policies.

Black Hair, White Discipline: Student-athlete protest in 1969

⁴⁴² Joint statement of President Strand and registrar Ordeman, October 3, 1956, Office of the President, Subgroup 6. General Subject File, 1903-1964, Series II. Colleges and Universities, 1941-1959, Pacific Coast Athletic Conference (PCAC), Oregon State University Special Collections, Oregon State University.

⁴⁴³ Phone call from Earl Dawson to President Strand, September 27, 1956, 2:45 PM, Office of the President, Subgroup 6. General Subject File, 1903-1964, Series II. Colleges and Universities, 1941-1959, Pacific Coast Athletic Conference (PCAC), Oregon State University Special Collections, Oregon State University.

⁴⁴⁴ Ibid.

⁴⁴⁵ Sam Wesley’s Testimony, October 3, 1956, Office of the President, Subgroup 6. General Subject File, 1903-1964, Series II. Colleges and Universities, 1941-1959, Pacific Coast Athletic Conference (PCAC), Oregon State University, Special Collections, Oregon State University.

The athletic department's reinforcement of its spatial autonomy and disciplinary mechanisms had significant aftershocks in the 1960s. Both the protesting Black student-athletes and their allies in the Black Student Union, fellow students and administrators would be fighting an uphill battle against a spatial and disciplinary apparatus centered around managing student-athletes as a hybrid of student and labor. Nevertheless, they all persisted; after Milton was dismissed by Andros, the Black Student Union and Black athletes argued for the establishment of a Human Rights Commission to investigate infractions pertaining to Civil Rights Violations.⁴⁴⁶

Initially, this proposal for a Human Rights Commission looked hopeful. They were not alone: the proposal was supported by many faculty members and students. In response to Andros' dismissal of Milton from the team on February 25th, both the remaining Black athletes and the Black Student Union proposed boycotting classes. Many student-groups agreed, most prominently, the Students for a Democratic Society (SDS).⁴⁴⁷ Additionally, several other departments joined the boycott and a number of departments allowed individual professors and students to codetermine the boycotting processes.⁴⁴⁸ Civil Rights organizations outside campus also lent their support. The Benton-Linn Chapter of the ACLU supported the Human Rights Commission, noting that actions, not words protected constitutional and human rights: "The test of the effectiveness of these procedures (preserving civil liberties and human rights) is, however, in their application."⁴⁴⁹

The governor even expressed interest in the plight of the athletes. He attempted to nuance the debate between the human rights that all humans, student-athletes-included, were entitled to, on one hand, and the historical and ideological frameworks that legitimized coaches' authority over student-athlete's discipline, on the other: "At first glance, the current OSU conflict between the BSU and the athletic department may appear to some observers to be a simple matter of coach discipline. On the other hand, it may appear to other observers to be a simple case of violation of individual human rights. Neither conclusion is fully justified-the issues are much more complex. They concern not only the entirely defensible aspirations of a coach to maintain strict discipline and command loyalty among members of a team, they concern also the cultural aspirations of a large number of Americans who have been struggling against current odds for individual and group identity."⁴⁵⁰

Surprisingly, the university acted quickly to contain the threat posed by the Black athletes and the Black Student Union. The next day on February 26th, President Jensen offered a declarative policy statement about Human Rights at Oregon State University, noting that human rights could not be subject to arbitrary dictation by any department on Oregon State's campus: "In view of recent happenings on our campus, as President of Oregon State University, I take this occasion to reaffirm the principles of human rights. The University cannot justify arbitrary practices which disparage the dignity of an individual or limit him in his quest for personal identity.

⁴⁴⁶ President Jensen Records, Subject and Correspondence Files: Black Student Union 1968-1969, Pacific Coast Athletic Conference (PCAC), Oregon State University, Special Collections, Oregon State University.

⁴⁴⁷ Ibid. Continuance, Oregon State Barometer, Published on February 27, 1969.

⁴⁴⁸ Ibid.

⁴⁴⁹ Press release, written by R.C.A Moore, Chairman of Benton-Linn Chapter ACLU of Oregon, released on March 7, 1969.

⁴⁵⁰ Tom McCall, "Governor's Statement," Published on March 5, 1969

The University, therefore, will not tolerate discrimination which violates an individual's right to determine what constitutes social and cultural values.”⁴⁵¹

Administrators also saw reasons to be hopeful about the creation of this Commission: it applied to all students, including student-athletes. As the Committee on Minority Affairs powerfully argued, student-athletes were not simply members of the university community and thus eligible for protections like other students, they also deserved human rights protections as well: “Just as all other student participating in university activities are not to be reprimanded or threatened because of their beliefs, mode of dress, hair style or any other human right unless it demonstrably interferes with the University’s basic functions, so also should these principles apply to athletes. No person should use the threat of removal of an athlete’s or any other student’s grant or scholarship, or suspension from his participation on teams or other groups, or any other form of coercion as a means of forcing behavior on an athlete.”⁴⁵² The Committee on Minority Affairs thus pushed back on the negative space that the athletic department used to discipline and manage student-athletes: the department should not, could not exist in a space on its own.

However, other groups on campus wanted to move with more alacrity, precision and tangibility. In a letter to the President of the Black Student Union, Keith Goldhammer, a dean at OSU, proposed a concrete policy, suggesting that the athletic department and the Black Student Union each send three delegates to discuss problems within the department. Goldhammer was following up on President Jenson’s policy statement charging “the Committee on Minority Affairs to bring together representatives from the Black Student Union and the Department of Intercollegiate Athletics to identify issues and needs more clearly, and to define the proper boundaries of disciplinary control.”⁴⁵³

Goldhammer’s proposal was prophetic for how Black students and student-athletes felt about the Human Rights Commission’s lack of movement on Milton’s dismissal. On March 7, 1969, the day after Goldhammer submitted his proposal, Black students, accompanied by ten of the seventeen Black athletes on campus, walked out of the university in protest. The next day, the Black Student Union wrote an impassioned letter to President Jenson arguing for more alacrity regarding the Human Rights Commission, arguing that “the administration does not grasp the disastrous consequences of the Black Student walkout” earlier in the month.” The students delivered an ultimatum to the university: if the administration’s proposal to establish a human rights’ commission was not immediately implemented, “the concerned students of this university will join those already leaving and follow the Black students through the gates. We will not accept a compromise because the principle of human and individual rights cannot be compromised.”⁴⁵⁴

⁴⁵¹ Statements of Policy by Pres. Jensen, February 26, 1969, RG 32, Folder 34, Administrative Council Correspondence 1961-1970, Oregon State University Special Collections, Oregon State University.

⁴⁵² Revised Administrative Proposal based on the Administrative proposal prepared and endorsed by the Committee on Minority Affairs, March 6, 1969, RG 32, Folder 34, Administrative Council Correspondence 1961-1970, Oregon State University Special Collections, Oregon State University.

⁴⁵³ Keith Goldhammer, a Letter to Michael Smith, President of the Black Student Union, March 5, 1969, RG 32, Folder 34, Subject and Correspondence Files: Black Student Union 1968-1969,, Oregon State University Special Collections, Oregon State University.

⁴⁵⁴ Student Proposal to President Jenson, March 7, 1969, President Jensen Records, Subject and Correspondence Files: Black Student Union 1968-1969, RG 32, Folder 34, Oregon State University Special Collections, Oregon State University.

The Black Student Union and Black student-athletes had grounds to feel that the institution did not intend to rectify Milton's disciplinary sentence, and address complaints that other Black athletes voiced. Many white students and white student-athletes within the university and outside of the university vociferously supported Andros and the Athletic Department. Supporters of Andros and the Athletic Department often used a common language to support him. They argued that the coach's decisions were not only legitimate, but also that coaching as a profession and as an ideology required unilateral authority over decision-making and disciplinary processes even if it deprived student-athletes of human or constitutional rights. In practice, coaches and the athletic departments that employed them required special spaces that endowed them with extraordinary powers in order to fulfill their jobs' mandates.

On March 3rd, four days before Goldhammer submitted his proposal to the president, at least fifty male graduate students and their wives signed a petition supporting the athletic department, arguing that they "support all the decisions of the coaches of Oregon State University to uphold and enforce all institutional regulations and established athletic department policies of Oregon State University."⁴⁵⁵ These graduate students and their wives were supported by local high school student-athletes at Corvallis high school; seventy-five of these student-athletes wrote to Andros that they were "in agreement with the present policy of the Athletic Department at Oregon State University in regards to the coaches' authority over the players as dictated by the head coach of each sport."⁴⁵⁶ In both instances, the petitioners did not acknowledge the inequities that the Black student-athletes identified. Implicitly, they argued that these inequities were necessary in order for coaches to properly manage their teams.

Most perniciously for Black student-athletes, many of their white counterparts at the university openly advocated for coaches' prerogative over nearly all aspects of student-athlete life. *The Barometer* reported that some fifty white student-athletes met on February 24, and, after discussing the controversy surrounding Milton's plight amongst themselves, voted to endorse the position of the coaching staff.⁴⁵⁷ *The Barometer* captured an explosive disagreement between five members of the Oregon State football team. This disagreement laid bare the stakes of the conflict and the ideological motivations behind the Black Student athletes and the Athletic Department.

Bryce Huddlestone, a Black running back, argued that Andros' disciplinary policies centered around a kind of anti-Black racial transformation. Andros thus used negative space to attempt to transfigure Black men into white men, "Andros does not want me to be Black. He wants me to be a nice, All-American blue-eyed boy."⁴⁵⁸ Huddlestone attempted to reveal the epistemological framework that college athletics revolved around: the particular discipline that coaches often enacted upon student-athletes was structured around whiteness and thus would primarily benefit white athletes. Huddlestone was challenged by Wally Johnson, a white linebacker. He argued that Andros' policies were designed to make both Black and White athletes

⁴⁵⁵ Graduate Student Petition supporting the Athletic Department, March 3, 1969, President Jensen Records, Subject and Correspondence Files: Black Student Union 1968-1969, Oregon State University Special Collections, Oregon State University.

⁴⁵⁶ High School Student-Athlete petition supporting the Athletic Department, March 3, 1969, President Jensen Records, Subject and Correspondence Files: Black Student Union 1968-1969, Oregon State University Special Collections, Oregon State University.

⁴⁵⁷ "OSU Athletes Start Petition, in Andros is Accused of Discrimination," *The Barometer*, February 25, 1969.

⁴⁵⁸ "Black Athletes Fire Charges at Fellow Gridders," *The Barometer*, February 26, 1969.

more respectable and only thought of the team as a whole.⁴⁵⁹ Johnson's argument was challenged by Rich Harr, a Black defensive halfback, who argued that discipline and personal presentation should never be linked together, "I will not sacrifice my rights as a human being for a trip to the Rose Bowl. Human Rights are now. I won't be a puppet for the coaches."⁴⁶⁰ Thus, for Black football players, Andros' hair policies were violations of their human rights; the sacrifices asked by the coaching staff could not in the best interest of the team because removing human and constitutional rights would be incompatible with the best interest of the individuals that make up the team. Hair, to many Black athletes, was a unique form of socio-political expression that should not be infringed upon.

Jess Lewis, a white defensive lineman, quickly retorted, and in doing so encapsulated the arguments of the Athletic Department, "We have to have a feeling of unity. Rules help make unity. We don't want the rules to break down and be like the University of Oregon without communication between whites and Blacks... about 95 percent of campus wants a clean team, if you don't like the rules, you are free to leave."⁴⁶¹ For many white athletes, the facts were not in dispute; the Black student-athlete's accusations of human rights violations were probably true. Yet, to many of them, playing college sports meant ideas of individuality and constitutional protections were subsumed to the idea of the team. For the sake of order, hierarchy and morality, coaches required negative space to restrict human and constitutional rights for the good of the team. Andros and his supporters may have thought: of what import could Black hair possibly be when viewed in light of these grand goals?

Thus, the Athletic Department, and Athletic Board were powerful institutions on and off campus, with their own historical and ideological safeguards against the Black Student-Athlete's claims. The department argued that student-athlete's rights were never violated; subservience to authority and dedication to a cause larger than oneself was an essential lesson that student-athletes needed to learn; and, in turn, the administration and coaching staff required massive amounts of authority to achieve this goal. Perhaps most importantly, they argued that student-athletes already had means through which to appeal decisions made by the coaching staff. Under this model, the Athletic Director and the Athletic Board would serve as the ultimate arbiters of discipline: "Believing in the benefits of athletic participation by the Oregon State University student, and the resultant fostering of the qualities of cooperation, integrity, and leadership, the Board of Intercollegiate Athletics reaffirms its policies, namely:

1. It is the responsibility of the coaches to the University to manage their respective departments and lead and instill qualities of discipline and a striving for excellence;
2. Student-athletes are citizens and individuals who are not expected to relinquish their human rights. However, they, through their free decision to participate in athletics, must subscribe to the regiment which contributes to and sustains the effective functioning of the team as a cooperative and dedicated effort.
3. If problems should arise which involve human rights, there is an open and fully available avenue of review and appeal for both student and coach. This avenue, reaffirmed, is to the Director of Intercollegiate Athletics. In the event he cannot satisfactory settle the problem

⁴⁵⁹ Ibid.

⁴⁶⁰ Ibid.

⁴⁶¹ Ibid.

in question, the Board of Intercollegiate Athletics composed of two students, six faculty and three alumni of Oregon State University, will review the situation and make those recommendations necessary to solve the problem in a manner which will be equitable to all.”⁴⁶²

The figure who most embodied the athletic department’s philosophy was Dee Andros. In a letter responding to the Black Student Union, he legitimized dismissing Milton by framing and highlighting the molding of young student-athletes into moral men as critical components of his head coaching responsibilities. Coaching, in Andros’ eyes, took elements from both parenting and labor management, and therefore could not simply be described as a job, but a calling, “I am deeply conscious of my obligations as Head Football Coach, an obligation which embraces not alone my duty to the University and to the fine young men I am privileged to work with, but also to the coaching profession itself and to the responsibilities which I have assumed as a member of that profession. I would be guilty of a great disservice were I to abandon the concepts of training, discipline indoctrination, team unity and morale which are fundamental to and inseparable from that profession.”⁴⁶³ Though Andros did not directly cite them, his views fit perfectly with how coaches and administrators thought student-athletes should be managed since the 1930s: as trainees who required guidance to learn important life lessons for the workplace.

Perhaps most importantly for the university, athletic department, and the Black student-athletes under his jurisdiction, Andros argued that in order to be a successful coach, he needed to manage athletes autocratically. In order to legitimize his autocratic managerial style, Andros pointed to the unique logics of sport as a space through which to train men to voluntarily sacrifice even individual constitutional protections for the larger overall community, in this case, the football team.

“Perhaps, to those who have not been privileged to participate in intercollegiate team competition or who do not understand the requirements of such challenging activities, this appears undemocratic and incompatible with our constitutional concepts of individualism and human rights and liberties. But I would remind all that the privilege of competing in the intercollegiate arena requires considerable effort, indeed sacrifice; but it is effort and sacrifice which one must elect to give for himself and once the election is made must be in good conscience be contributed unstintingly and wholeheartedly... Such lessons and such training are invaluable to our young men as they progress through their university careers.”⁴⁶⁴

Andros thus argued that the lessons obtained through participating in athletics was worth the cost of sacrificing human rights and constitutional liberties, and critically for his argument, non-athletic participants couldn’t possibly understand the unique culture of athletics that **demand**ed such sacrifice. As a result, coaches needed a separate space to instill these lessons without outside

⁴⁶² Oregon State Administrative Council Correspondence, “Athletic Board Action” March 3, 1969, Administrative Council Correspondence 1961-1970, Oregon State University Special Collections, Oregon State University.

⁴⁶³ Dee Andros, “Proposed Statement of Dee Andros,” March 4, 1969, President Jensen Records, Subject and Correspondence Files: Black Student Union 1968-1969, Oregon State University Special Collections, Oregon State University.

⁴⁶⁴ Ibid.

influences. Andros' philosophy intrinsically clashed with the Black Student Union's argument about human and individual rights; this conflict resonated throughout the Human Rights Commission's deliberations.

Human Rights or Coaches' Prerogative? Human Rights Commission and Student Athlete Protest

To the delight of the Black Student Union, Black student-athletes, and many other students on campus, President Jensen authorized the formation of a Human Rights Commission on March 6, 1969. The commission possessed a broad array of responsibilities and the power to enact important decisions; the commission was directly answerable to the President. The enforcement position, for example, only contained a single paragraph detailing how the rulings of the committee would be enforced because the committee's rulings would supersede the enforcement mechanisms of all other departments, "Normally the Commission will request all parties to an appeal to hold in abeyance and suspend any action enforcing the decision appealed from pending the completion of the Commission's review and final action by the President, unless there are reasons related to the physical or emotional safety and well being of individuals or related to the protection and safety of the university community and its property which dictate a contrary action."⁴⁶⁵

The Human Rights Committee would serve students well, most notably regulating and identifying fraud in the ASOSU election in 1969. Yet, the committee was not a panacea that would solve Black student-athlete's problems. The committee would ultimately reaffirm coaches' repressive labor tactics over student-athletes and strengthen the negative space around the athletic department. Two cases demonstrate how the committee's compromises reaffirmed coaches' autocratic power: the case of Fred Milton and the case of Robert Hertan. Though Milton's case was significantly more famous, Hertan's case was as important, both symbolically and practically, for how the university treated Black athletes.

The Committee for Human Rights thoroughly investigated Milton's claims, interviewing him, Andros, and other members of the athletic department. After locating Milton- he moved to Portland after being dismissed-the Committee labored to reach a conclusion that would not simply provide an equitable solution, but in their minds, resolve the growing conflict between the athletic department student-athletes on campus. As a result, the committee came to a compromise between student-athletes and coaches. Coaches would have their traditional prerogatives during the season, but student-athletes would have autonomy over their bodily decisions in the off-season, "In off-seasons, between practice and playing periods, the human right to grow facial hair should be respected. Even then, beards should be neatly groomed. But during practice and playing seasons, coaches should have the prerogative of regulating head and facial hair of the players on grounds of team performance and health and safety."⁴⁶⁶

The Commission deliberately worded their report in a way that would appear neutral to Andros and Milton, arguing that Andros' violation of Milton's human rights was not intentional and that coaches were correct in that hair could be a health hazard for athletes during the season, "The Commission does not suggest that the violation of Mr. Milton's human rights was deliberate.

⁴⁶⁵ Oregon State University President's Commission On Human Rights And Responsibilities, "Enforcement of Decision during the Committee's Review," President Jensen Records, Commission on Human Rights and Responsibilities, 1969, Oregon State University Special Collections, Oregon State University. P.4.

⁴⁶⁶ Ibid

Rather it is the Commission's judgment that a human rights violation resulted from rules of discipline which reflect an insufficient sensitivity to the changing needs, values and attitudes of individual team members, including the emerging social and cultural values of members of the Black community. Coaches contend beards affect team morale and hence performance, so presumably OSU teams will have reasonably short hair and be clean shaven in the future as in the past.”⁴⁶⁷

The committee also made a major ruling in the spring of 1969, one that had just as much of an impact on Oregon State’s campus as the Milton decision. On May 13, 1969, the Commission considered the appeal of Robert Hertan, a track athlete. Hertan’s case and Milton’s were factually similar: when head track coach Berny Wagner approached him about his mustache, Hertan refused to cut it, or maintain it in line with the track team’s grooming policy. Hertan alleged that Wagner infringed on his human rights by directing that he comply with standards of personal appearance established for all members of the varsity and Freshman track squads.⁴⁶⁸ In conjunction with the Milton decision, the Committee recognized that “The Intercollegiate Athletic Board, after reviewing the matter, held that ‘Coach Wagner had acted within his authority as head coach and his request had been reasonable.’”⁴⁶⁹ After careful consideration of the evidence presented to it by written submissions and through interviews with Hertan, Coach Wagner and Wallace E. Gibbs, the Chairman of the OSU Board of Intercollegiate Athletics, the Commission reached the following conclusions:

1. There is no significant dispute or disagreement between the parties as to the pertinent facts.
2. Although the Commission acknowledges the importance of self-expression identified by Mr. Hertan and commends him both for his concern for individual human rights and for the orderly and cooperative manner in which he has presented his case for review and appeal, it nevertheless concludes that Coach Wagner’s standards of personal appearance are reasonable and appropriate to the development of motivation and morale essential to excellence of team performance.
3. The Commission believes that this conclusion is consistent with its recent recommendations in the Fred Milton case. It notes that (a) Coach Wagner’s personal appearance standards were developed after consultation with track squad members; (b) that Coach Wagner permits track athletes to wear neatly groomed mustaches; and (c) that Coach Wagner, in compliance with the Commission’s recent recommendations, has prepared written team regulations for distribution to all present and prospective OSU track athletes.
4. The Commission argues that, “Although it does not concur fully with all the action of the participants in this controversy, nevertheless, on the basis of evidence brought before it, the Commission is not persuaded that a violation of human rights has occurred.”⁴⁷⁰

⁴⁶⁷ Ibid.

⁴⁶⁸ President Jensen Records, Commission on Human Rights and Responsibilities, Statement of the President’s Commission on Human Rights and Responsibilities to the Appeal of Robert Hertan, May 13, 1969, 1969, Oregon State University Special Collections, Oregon State University.

⁴⁶⁹ Ibid.

⁴⁷⁰ Ibid.

Both the Milton and Herten decisions reflected how student-athlete protestors were governed by nineteenth and early twentieth century labor models in two different ways. They reinforced the negative space through which coaches could autocratically and arbitrarily disciplined their student-athletes in similar ways to how managers disciplined employees. By recommending that the athletic department retain control over student-athletes' hair policies during the season, the Commission did not seem to fully understand either the ideology behind the protest or the accompanying boycott. Human rights, according to the commission, were both inviolable and could be autocratically managed by coaching staffs and university management at large. The Commission clearly thought of student-athletes as labor because the hair policies were enforced during the season when student-athletes were working on and off the field. As importantly, though neither the Black athletes, nor the Black Student Union explicitly talked about it, student-athletes' First Amendment rights to political expression were also infringed upon during the season, based on the committee's decisions. The Committee thus recognized that the Athletic Department was and should be a separate space, and as a result, coaches' had the power to alter or even remove constitutional protections. Finally, though the Committee recommended coaches de-emphasize hair restrictions in the off-season, the committee still stipulated that the student-athlete's hair needed to be "neat." Thus, coaches could determine hair policies throughout the season, and critically, also determine if a student-athlete's facial hair in the offseason was "neat." Ultimately, the Commission still allowed the human and constitutional rights of student athletes to flow through the filter of the coach.

In Herten's case, the Committee's decision reflects how the university bowed to coaches' prerogatives. Though Wagner's policies were not arbitrary like Andros' policies, by democratically allocating human and constitutional protections, Wagner implicitly recognized that athletic departments should be in a space of its own. Constitutional protections and human rights were, and should be, under the jurisdiction of management. The very act of exercising human rights or acknowledging constitutional protections simply could not stand in light of management's authority over student-athletes. In a response to questions about Milton's protest and the walkout by Black athletes and Black students, Wagner argued that the very exclusion from the rules-making process would teach student-athletes valuable lessons about how to handle rules and regulations that they did not agree with, "One thing that you will all face in your daily lives is the following of rules, regulations and policies in which you had no part in deciding."⁴⁷¹ These lessons were important enough to the Committee that it overruled Herten's credible allegations of verbal harassment and threatening behavior by Wagner; though the Committee "did not fully concur with all the actions of the participants," mere disagreements would not interfere with the coaches' prerogative to discipline their athletes as they saw fit.

Conclusion

The Committee's decision to support the coaches' decisions in the Milton and Herten cases convinced many members of the Black Student Union and Black students that they were fighting a losing battle, one not worth fighting. Mike Smith, president of the Black Student Union, aptly described an offshoot of the phenomena that Orlando Patterson described as "intrusive social death," a process that helped legitimize the process of enslavement by deeming an enslaved person

⁴⁷¹ Walter Ebell, "Coaches, Athletes Reaffirm Position," *The Barometer*, February 28, 1968.

as an intrinsic outsider to the larger community.⁴⁷² Smith bleakly note that the impact that the coaches' rules had upon Black student-athletes restricted their identities as Black people: "As Black students, from kindergarten to college we are expected to involve ourselves psychologically, culturally, and socially in an enterprise which is designed supposedly for the purpose of broadening our horizons and providing us proper knowledge to better relate to the real world. In truth, this enterprise has proven unaccepting and essentially denigrating of our social and cultural background To deny us as Black people the right to live our lives as we choose within the context of our own culture is to relegate us to the role of the 'super-masculine menial' of this society. Huge muscular bodies of no value as human beings and individuals. To accept the administrative tokenism we have been offered would be denying our worth as human beings, and thus viewing our lives as conspicuously unimportant to the world in which we live."⁴⁷³

Smith's lamentation reveals an important part about how negative space and the athletic department interacted. Negative space was integral to how athletic departments attempted to erase Black experience, education, and human expression while extracting economic and cultural capital from their labors. It provided a separate space in which student-athletes would learn to become more effective laborers by suppressing the individual to management, allowing for the extinguishing of human and constitutional rights, while providing economic and symbolic value for the university. Student-athletics thus was a unique form of capital extraction in the 1960s precisely because it operated through the lens of the 1960s-70s version of the late nineteenth century manager and negative space provided a separate place, ideologically and pragmatically, for coaches to embody these managers.

Black students left the university *en masse* in the fall of 1969, following the protests' end. The *Barometer* reported in an article in the fall semester that only ten Black non-freshmen students from the entire Black student population remained. The policies espoused by the Commission thus finalized the logics of negative space at the expense of the Black population at the university. Students throughout the university registered this loss. An article in the *Scab Sheet*, a student run newspaper, judged the significance of their departure this way: "This will be no mass exodus. In fact, if we depend only on a count of bodies and the color of the bodies to interpret the significance of their departure, their goodbye will be an insignificant and unnoticed one, except to those who would cheer the bus on its way from Oregon State. But numbers are not the only scale by which the significance of a movement of people should be evaluated. When a university loses individuals because of principle, that is a significant loss."⁴⁷⁴

Out of the ten students that remained, most were Black athletes, the *Barometer* reported. Though this might seem surprising, it was a final example of the coaches' power over student-athletes: for student-athletes to leave the university, they had to ask their coaches for permission, per their contract with the Athletic Department. One could not escape the lessons of sport, nor its extraction of capital, so easily.

⁴⁷² Orlando Patterson, "Authority, Alien and Social Death," in *Slavery and Social Death: a Comparative Study* (Cambridge, Mass: Harvard University Press, 1982).

⁴⁷³ Gwil Evans, "Confrontation," *Oregon Stater*, April, 1969.

⁴⁷⁴ Ibid.

Chapter Seven: Who Pays the Costs, Who Receives the Benefits? The Legacy of Student-Athlete Activism, 1970-2020

The explosive protests of the late 1960s and early 1970s were simultaneously enmeshed within the socio-cultural contexts of the time. The Black athletes at each university fought valiantly, demanding equity from their athletic departments. They often placed their demands in the context of workplace demands and demands of student protestors in the 1960s. Led by Bob Smith and John McGaffie, Black athletes demanded solutions from Berkeley that reflected their hybridity as students and laborers: a Black coach, better economic security, and more recognition from both coaches and campus media for their accomplishments. Facing perhaps the most oppressive regime, Black athletes at Wyoming demanded the university respect their First Amendment rights; for Wyoming's Black 14, simply being an athlete could not be grounds for the unilateral removal of one's right to speech and to associate freely. At Syracuse, 9 players' demands straddled the lines between Black student activism and labor activism, seeking to change the absence of Black coaches on staff and Black people in the Athletic Department as well as the "double-standard of discipline" that in the Athletic Department based upon racist assumptions about Black Americans. Similarly, they fought to reform the team doctor's blatantly medical racist practices, which the Athletic Department condoned. Furthermore, they struggled to change a lack of academic advising for Black players. Ultimately, the Syracuse 9 argued that these serious problems were all flagrant violations of their rights as student-athletes. Finally, Black Athletes and other activists at Oregon State University protested against Human Rights violations and Constitutional violations committed by Dee Andros and the Athletic Department.

Over the next decade, some of these protesting athletes' demands were met in universities throughout the nation. Some of these Black athletes' complaints about coaching and workplace culture were, in some way, addressed during the 1970s and into the 1980s. Both Eaton and Schwartzwalder, and many of the coaches that admired them, were out of coaching by 1980. In particular, many of the Syracuse 8's arguments were implemented in university programs by 1990. Universities throughout the country, including Syracuse, implemented African American Studies programs, created tutorial programs that spoke to the particular needs of Black student-athletes, and hired Black assistant coaches and Black trainers, sparking demonstrative change within the broader university, not just the athletic department.

The Syracuse 8's demands weren't the only demands that were realized. The martyred athletes at Wyoming also had their demands met, albeit much later than at Syracuse. In 1978, the Mormon Church officially accepted African Americans into their organization, thus attempting to right the wrongs the Black 14 protested for nearly a decade prior. Administrators at Berkeley, Oregon State and Syracuse, in some way, attempted to institute some kind of institutional oversight over their athletic departments; even Wyoming, the lone university in the sample to not attempt to overhaul its athletic departments administratively, attempted to rein in the power of the coach informally.

These demands cost student-athletes dearly. By 1973, the protestors at Berkeley, Wyoming, Syracuse and Oregon State were all disciplined unilaterally, and protestors at Wyoming, Syracuse and Oregon State were dismissed or removed from the university. Universities were able to discipline student-athletes unilaterally because athletic departments were encased within negative space, a vacuum that isolated athletic departments from broader social, legal and economic trends of the twentieth century. This space was systematically carved out by coaches, athletic directors throughout the late nineteenth and twentieth centuries. From the corporatization of the athletic departments at Berkeley and Oregon State, to the autocratic power of the coaches at Wyoming and Syracuse, this negative space allowed athletic departments to nullify student-athlete protestors' demands in different ways.

Thus, though athletic departments made progress along these lines since 1972, much of the progress was superficial, and often not focused around student-athlete's concerns. Many of the demands that student-athletes protested for at their respective universities were not fully fulfilled in the short term or in the long term. Most prominently, these included: constitutional rights to Free Speech and Assembly by the Wyoming 14; Black coaches and broader pro-Black reforms by the Syracuse 8; equitable workplace environments and disciplinary processes at Berkeley; and, equitable hair policies amongst larger disciplinary policies at Oregon State.

Integration, Hair Policies and Coaches

One of the demands that Black athletes at Berkeley and Syracuse's shared, ending racial quotas for positions on the team otherwise known as position-stacking, was not realized. Position-stacking impacted Black athletes disproportionately because different positions had different workloads on the field and important ideologies that linked individual positions to particular racial groups. By stacking Black athletes in a more commodified positions like running back, one not associated with intellectual prowess, and stacking white athletes at quarterback and left tackle, less commodified central positions that required cerebral understandings of the sport, coaches often reinforced racist arguments that Black athletes were mentally incapable of leading a team. As historian Richard Lewis, Jr. argued, university football teams racially stacked teams in similar ways in 1989 as they did in 1970.⁴⁷⁵ Lewis Jr concluded, "Black players were overrepresented in peripheral positions and underrepresented in central positions in comparison to their White counterparts."⁴⁷⁶ Thus, Black athletes' protests around their positions on the field were largely ineffective throughout the late twentieth century.

Protestors' demands about hair policies at Oregon State were delegitimized similarly. Neither the NCAA nor universities throughout the country systematically or institutionally addressed coaches' power to set standards of personal grooming, including hair policies, mustaches and beards, to include expressions of Black hair policies, as well as styles from other ethno-racial groups. In a survey conducted in 1972 at Berkeley, the Chancellors Committee on Intercollegiate Athletics found that coaches still possessed tremendous amounts of power over players' personal appearances, nearly four years after Berkeley's Black athletes protested about

⁴⁷⁵ Richard Lewis, "Racial Position Segregation: A Case Study of Southwest Conference Football, 1978 and 1989," *Journal of Black Studies*, vol. 25, no. 4 (March, 1995): 431-446.

⁴⁷⁶ *Ibid.*, 439.

the issue.⁴⁷⁷ In 1971, a year after their protest, a White athlete no less prestigious than William Skinner, a three time national champion javelin thrower and winner of the U.S-USSR joint meet in 1970, was dismissed from the University of Tennessee because he refused to cut his mustache.⁴⁷⁸ Even a coach as progressive and universally beloved as Dean Smith, the head basketball coach at North Carolina from 1961 to 1997, did not allow his players to have facial hair; a medical exemption was the only way a player could have facial hair under his tutelage.⁴⁷⁹ It wasn't until 2021, with the institution of new Name Image and Likeness (NIL) rules that student-athlete's grooming was formally decoupled from the coaches' authority over team activities.

The demand that Black athletes at Syracuse and Berkeley made about hiring Black coaches also fell on deaf ears. Though universities and athletic departments began to hire Black assistant coaches in the 1970s, these positions were often traps for Black coaches because they were expected to act in opposition to Black players' interests. For instance, Earl Robinson, an assistant coach hired by Berkeley to assuage the Black players' demands, left after one season; when interviewing him about his experiences at Berkeley, Dan Pellet noted that Robinson felt "Jim Padgett (The head basketball coach at Berkeley at the time) took advantage of him and used him to "pacify" Black athletes."⁴⁸⁰ Robinson "didn't want to be associated with Padgett, who he felt was exploiting the athletes."⁴⁸¹

Black coaches were often overlooked for head coaching positions at predominantly White institutions. The first Black head coach of a Power Five athletic program, Dennis Green, was hired in 1981 at Northwestern University, a full decade after the athletes at Syracuse and Berkeley brought local and national attention to the issue. From 1981 to 1993, only three Black coaches were hired at Power Five conferences, and Green was one of those.⁴⁸² Perhaps most damning is the fact that as of 2021, roughly half of all Power 5 programs, 35 universities, have never hired a Black head coach.⁴⁸³ Thus, though coaching was theoretically integrated, it was in name only: Black coaches rarely received the opportunity to become the head coach.⁴⁸⁴

Student-Athletes and Constitutional Protections

⁴⁷⁷ Report to the Chancellors Committee on Intercollegiate Athletics on Athletic Practices, in, Office of the Chancellor records 1952-2000, Cu-149, Box 135, folder 24, University of California-Berkeley University Archives, Bancroft Library Special Collections, University of California-Berkeley.

⁴⁷⁸ Sports Illustrated Staff, "Is A Mustache Just Peanuts? This Is The Burning Question At The University Of Tennessee, Where Bill Skinner, The Top U.S. Javelin Thrower, Is Joined In Moral Combat With The Coaches And The Chancellor," *Sports Illustrated Vault*, June 14, 1971.

⁴⁷⁹ Kenny Smith, quoted in Larry Brown, "NBA legend got exemption from infamous North Carolina facial hair policy," *Larry Brown Sports*, March 22, 2022.

⁴⁸⁰ Dan Pallet, "The First Black Assistant Basketball Coach at Cal" in Notes for Student papers on University of California, Berkeley, sports and other subjects related to athletics, 1968-1973. Cu 67.1 Box 1, University of California-Berkeley University Archives, Bancroft Library Special Collections, University of California-Berkeley.

⁴⁸¹ Ibid.

⁴⁸² ESPN staff writers, "Black Hires In College Football Leadership" ESPN, [The history of Black hires in college football leadership \(espn.com\)](https://www.espn.com/story/_/id/32111111/black-hires-in-college-football-leadership)

⁴⁸³ Ibid.

⁴⁸⁴ Donald H. Yee, "College football is rigged against Black head coaches," *The Washington Post*, December 9, 2015.

Though Wyoming's Black 14 protested, and ultimately filed a lawsuit to protect their constitutional rights, student-athletes' constitutional protections were still constantly negotiated and re-negotiated. Perhaps most poignantly, in the 1980s, state supreme courts and the U.S. Supreme Court attempted to address major questions about student athletes, and their rulings ultimately strengthened the negative space that surrounded athletic departments. In *Marcum v. Dah*, decided in 1981, the U.S. District Court in Oklahoma ruled that student-athletes at the University of Oklahoma women's basketball team were not entitled to First Amendment protections for critiquing their head coach, arguing that "The problems created by the controversy between the scholarship and non-scholarship players were internal problems with which the defendants were required to deal in their official capacities. Such matters are not of general public concern and the plaintiffs' comments to the press did not invoke First Amendment protection"⁴⁸⁵

A key facet of the Court's opinion was that women's scholarships contained the clause that "This award may be renewed as long as you remain eligible in accordance with the AIAW Rules."⁴⁸⁶ In this context, questioning the authority and position of the coach meant that the coach, supported by the athletic director, could unilaterally strip student-athletes of their scholarships for reasons that violated that clause, even if the reason was as vague as "attitude issues."⁴⁸⁷ Thus, to the District Court, student-athlete should be subject to internal discipline, even when it might unfairly target them. Here, though the Court does not name it explicitly, the athletic department should be relatively insulated from outside judgement into its processes, a critical part of maintaining negative space.

Courts strengthened the negative space surrounding athletic departments in other ways as well. Courts circumscribed student-athletes' claims to constitutional protections in 1988 with *NCAA v. Tarkanian*, ruling that the NCAA was not a state actor, and thus did not need to give athletes or coaches under investigation due process for disciplinary actions.⁴⁸⁸ As legal historian Brian Porto noted, the NCAA could act arbitrarily with no legal ramifications, "After *Tarkanian* the NCAA could direct a member institution to terminate a coach or suspend a student and hence could deprive that institution of a liberty interest in freedom of association without due process... An athlete whom the NCAA declared ineligible to compete arguably had a liberty interest in engaging in a significant human activity or in attempting to pursue a career in professional sports, which pursuit, at least in football and basketball, usually requires college-level participation."⁴⁸⁹ *Tarkanian* had dramatic legal implications: the NCAA was not simply a private organization with wide-ranging power via its relationship with individual states, but states across the country could not pass their own laws that forced the NCAA to protect student-athletes' or coach's right to due process.⁴⁹⁰ Thus, the NCAA restricted their right to due process, in a similar way to how universities installed transfer policies for student-athletes nearly a century ago. This was possible

⁴⁸⁵ *Marcum v. Dahl*, 658 F.2d 731, 734 (10th Cir. 1981)

⁴⁸⁶ *Ibid.*

⁴⁸⁷ *Ibid.*

⁴⁸⁸ *NCAA v. Tarkanian*, 488 U.S. 179 (Supreme Court, 1988).

⁴⁸⁹ Brian Porto, "Taming the Shark: The Supreme Court Decides *NCAA v. Tarkanian*," *The Supreme Court and the NCAA: The Case for Less Commercialism and More Due Process in College Sports*. University of Michigan Press, 2012) P.137.

⁴⁹⁰ *National Collegiate Athletic Ass'n v. Miller*, 795 F. Supp. 1476 (District Court of Nevada, 1992).

because courts recognized that college athletics, and by extension student-athletes, existed in a space onto themselves.

Even when student-athletes won in court, their victories were severely circumscribed. For example, in *Kush v. Rutledge*, decided in 1983, Rutledge, the plaintiff, a white football player at Arizona State University, claimed that the athletic director, head coach and assistant coaches conspired to threaten and to prevent potential witnesses from testifying at his trial in federal court, the Supreme Court ruled that discriminatory intent was not required for a private lawsuit under the Fourteenth Amendment.⁴⁹¹ However, the Supreme Court, siding with the district court and the Ninth Circuit Court of Appeals, held that student-athletes were not a designated class of individuals, and thus did not qualify for broader civil rights protections as a group. Student-athletes were codified through a lens of individuality, restricting their the ability to file for class-action suits to protect their rights as athletes.

This ruling seemed to clash with another case decided the year prior. In *Hall V Minnesota*, the District Court of Minnesota implied that student-athletes should be considered a separate class at universities because they were not recruited to be scholars, but athletes, “This Court has no hesitation in stating that the underlying reason for the plaintiff’s desire to be enrolled in a degree program at the defendant University is the enhancement of his chances of becoming a professional basketball player. The plaintiff was a highly recruited basketball player out of high school who was recruited to come to the University of Minnesota to be a basketball player and not a scholar.”⁴⁹² By ideologically and practically circumscribing student-athletes’ constitutional protections, courts strengthened the negative space that athletic departments could use to further extract capital and labor from student-athletes on and off the field of play.

Socio-culturally, educational demands made by athletes at all four universities sampled here were not fulfilled at universities throughout the country. Athletes at Syracuse argued vociferously that they should not be separated ideologically and pragmatically from other students; athletes at Berkeley also argued that they should be treated like fellow students. At Wyoming, student-athletes continuously cited *Tinker v. De Monies* in their lawsuit, arguing that their constitutional rights, and rights as students were violated. However, universities continued to integrate student-athletes, who were increasingly Black, into the capital-extraction nexus of NCAA and Division One athletics, often separating the student from student-athlete to legitimize not paying student-athletes fairly for their contributions to the university.

Critically, universities did not dismantle the negative space that athletic departments operated in, and this space was necessary for universities to systematically deny student-athletes educational opportunities. Student-athletes’ graduation rates weren’t officially categorized until 1984, delegitimizing student-athletes’ educational struggles. In 1984, federal statistics showed that only 35 percent of Black student-athletes graduated from their respective universities, the lowest percentage of all students surveyed.⁴⁹³ The NCAA’s data showed an even bleaker picture: according to their survey, only 27 percent of Black student-athletes graduated in 1984, and when adjusting for dropouts, only 39 percent of Black athletes graduated, when compared to 53 percent

⁴⁹¹ *Kush v. Rutledge*, 460 U.S. 719 (1983)

⁴⁹² *Hall v. University of Minnesota*, 530 F. Supp. 104 (D. Minn. 1982).

⁴⁹³ NCAA academic performance study: Report 91-01 A description of college graduation rates for 1984 and 1985 freshman student-athletes, 1991.

of white athletes, not adjusted for dropouts.⁴⁹⁴ In 1999, nearly fifteen years later, universities still graduated roughly 35 percent of Black athletes, nearly unchanged from 1984.⁴⁹⁵ According to Shawn Harper, executive director of the University of Southern California's Center on Race and Equity, only three universities in the Power Five conferences graduate Black athletes at equal or higher rates to regular undergraduate students.⁴⁹⁶

Though Black athletes' educational records have received more attention in the twenty-first century, they were still disproportionately enmeshed within capitalist frameworks that exploited both their labor on the field of play and their ability to generate capital off it. Much of this attention has occurred because of widespread educational scandals have not simply revealed the contingency of student in the term student-athlete, but also revealed how negative space helped shield the economic exploitation of student-athletes in practice. Most notably, the scandal at the University of North Carolina in 2014, one of the worst academic fraud scandals in American history, in which the African American studies program was used as a prop to keep ineligible, student-athletes eligible, exposed how this space operated in practice.

According to a university-commissioned investigation, UNC had offered what investigators called a "shadow curriculum" of non-existent classes for nearly two decades, classes into which athletes were steered. Though UNC seemingly subverted the N.C.A.A.'s central tenet that college athletics are a mere component of education, their revenue profile indicated that athletics were far more important than the word component would suggest. The combined revenue from the basketball and football teams, who were disproportionately registered in the "shadow curriculum, represented nearly 52 million of the department's 55 million annual revenue in 2013.⁴⁹⁷ The NCAA's response, to the chagrin of nearly every commentator on the incident, however, demonstrated the power and flexibility of negative space. As Marc Tracey of the *New York Times* reported, the NCAA ruled that it could not discipline UNC because it did not violate any rules. In effect, "it could not punish the university or its athletics program because the "paper" classes were not available exclusively to athletes."⁴⁹⁸

Although this ruling was shocking, it was not surprising. Greg Sankey, the commissioner of the Southeastern Conference at the time maintained that universities solely dictate when academic fraud occurs. According to this logic, UNC could legitimately police itself and determine if certain behaviors amounted to academic fraud. Universities indeed had extraordinary power with little outside intervention to prevent abuse. "The N.C.A.A. defers to its member schools to determine whether academic fraud occurred and, ultimately, the panel is bound to making

⁴⁹⁴ Ibid.

⁴⁹⁵ Robert W. Turner II, Richard M. Southall and Woody Eckard, "Athlete Graduation Rate Gaps at Division-I State Flagship Universities: An Exploratory Analysis Emphasizing Black Males, *A Journal on Black Men*, Vol. 3, No. 2 (Spring 2015), pp. 1-25.

⁴⁹⁶ Jeremy Bauer-Wolf, "Distorting the Record on Black Male Athletes," *Inside Higher Ed*, March 12, 2018, <https://www.insidehighered.com/news/2018/03/12/graduation-rates-Black-athletes-lower-most-students-study-shows>.

⁴⁹⁷ The University of North Carolina at Chapel Hill 2013-14 Intercollegiate Athletics Report, *University of North Carolina (UNC) Board of Trustees*, October 8, 2014, <https://bot.unc.edu/wp-content/uploads/sites/160/2014/08/Incollegiate-Athletics-Report.pdf>.

⁴⁹⁸ Marc Tracey, "N.C.A.A.: North Carolina Will Not Be Punished for Academic Scandal," *New York Times*, October 13, 2017, <https://www.nytimes.com/2017/10/13/sports/unc-north-carolina-ncaa.html>.

decisions within the rules set by the membership.”⁴⁹⁹ Thus, negative space provided universities with the separation necessary to ideologically segment student-athletes away from students, and treat them more like labor and capital assets than students. At UNC, 52 million dollars depended on this spatial separation.

Student-athletes also generated, in the language of Pierre Bourdieu, symbolic capital, capital based around respect and prestige, for universities. According to economists Devin G. Pope and Jaren C. Pope, when revenue-generating sports, primarily football and basketball, were successful, it not only increased the quantity of applications, but the quality of students that apply to the university. They explained: “football and basketball success significantly increases the quantity of applications to a school, with estimates ranging from 2% to 8% for the top 20 football schools and the top 16 basketball schools each year... private schools see increases in application rates after sports success that are two to four times higher than public schools... and the extra applications received are composed of both low and high SAT scoring students, thus providing potential for schools to improve their admission outcomes.”⁵⁰⁰ Thus, student-athletes’ academic exclusion were vital parts of extractive processes that benefitted universities in multiple ways. As a result, many of the academic goals student-athletes protested for in the late 1960s, even the identity of student itself, lay in shambles.⁵⁰¹

Legacy of Student-Athlete Protest in the Twenty-First Century

Though universities did not dismantle the negative space, the legacy of Black student-athlete protestors did not die. Student athletes have obtained far more power than in the 1960s. The recent protests of the University of Missouri’s and University of Maryland football team are evidence negative space wasn’t a ubiquitous force. In 2015, in the most radical collective action by a university athletic team since the Syracuse 8’s protest in 1971, thirty-two members of the University of Missouri football team threatened to boycott games in solidarity with the Concerned Student 1950 movement, which called for the university to address systemic racism on campus.⁵⁰² Sparked by the tragic shooting of Michael Brown in Ferguson, Missouri, the athletes took radical action to protest against the university apparatus, using similar language and tactics to student-athlete protestors in the 1960s. Perhaps most radically, the thirty members refused to play if the University’s president, Tim Wolfe, did not resign. Wolfe, who received substantial criticism for his comments implying that systemic racism was a belief not an established fact, resigned two days later, making this the first time since the 1970s that radical student activism helped remove a university president from power. Even more important: the University of Missouri’s student-athletes unleashed an important cultural shift in how student-athletes across the country felt about protest movements.

⁴⁹⁹ Ibid.

⁵⁰⁰ Devin G. Pope and Jaren C. Pope, “The Impact of College Sports Success on the Quantity and Quality of Student Applications,” *Southern Economic Journal* 75, no. 3 (2009): 750–80, <http://www.jstor.org/stable/27751414>.

⁵⁰¹ Jeremy Bauer-Wolf, “Distorting the Record on Black Male Athletes.”

⁵⁰² Eyder Peralta, “Missouri Football Players Strike to Demand Ouster of University President,” *National Public Radio*, November 8, 2015. As Peralta documented, these protests were inspired by Black students documented a series of incidents in which they were accosted with racial epithets on and off campus. In the most notorious incident, a swastika was drawn on the bathroom wall of one of the dorms using feces.

In the fall of 2018, football players at the University of Maryland protested against a tragedy that happened closer to home. On May 29th, offensive lineman Jordan McNair collapsed from a heatstroke at a football preseason workout after a condition test that consisted of ten sprints the length of the football field. As an investigative committee recorded, the football team was uniquely unprepared for a health emergency of this caliber. “The report highlighted several mistakes that were made in the school’s treatment of McNair, most of them occurring during the crucial hour after the player started exhibiting symptoms of heatstroke. Among the errors: There was no cold tub available, no rectal thermometer on hand and a long delay in contacting emergency medical services.”⁵⁰³ However, material conditions weren’t the only reason for the death of McNair: assistant coaches were actively negligent and abusive towards him and head coach DJ Durkin allowed the abuse to occur: according to four anonymous players’ account, after McNair showed visible signs of struggling with the workout, one player said Wes Robinson, the team’s head trainer, yelled: “Get him the ‘f---’ up.” Another player said Robinson yelled: “Drag his ass off the field.”⁵⁰⁴ As a direct result of the negligent and abusive behavior of the coaching staff, McNair tragically passed away on June 13th.

Student-athletes, joined by their fellow students, protested against the head coach and the coaching staff. Taking to Twitter, Ellis McKennie, a freshman offensive lineman conveyed the grief of the football team and eloquently stated that they would kneel before every game to protest McNair’s death. “Every Saturday my teammates and I have to kneel before the memorial of our fallen teammate. Yet a group of people do not have the courage to hold anyone accountable for his death. If only they could have the courage that Jordan had. It’s never the wrong time to do what’s right.”⁵⁰⁵ Tre Watson Sr, a senior defensive back, echoed McKennie’s statement, arguing that the University was afraid to hold the coaching staff accountable for the death of their teammate.

The negative space that the department was enmeshed within was unyielding. After a suspension, Durkin was slotted to return on October 20th after the Board of Regents approved of his return. However, student-athletes, with pressure from students, parents and critically, support from the president Wallace Loh, forced the space to yield. The next day on October 21, Durkin resigned, at the cost of Loh’s position as university president. The student-athletes, with assistance from other students, not simply held the Athletic Department accountable for egregious violations of student-athlete rights, but also achieved more necessary safety regulations, preventing coaches from placing student-athletes into dangerous positions.

After the 1970s, the legacies of these student-athlete protestors stretched into women’s college sports. Throughout the early to mid-twentieth century, activists for women sports consistently pushed for inclusion within the university framework, highlighted by the passage of Title IX in 1972, a law designed to provide equity for female athletes at universities.

Not surprisingly, an act of protest provided some much-needed fangs to enforce Title IX and brought attention to the continued plight of female athletes. On March 3rd, 1976, nineteen

⁵⁰³ Rick Maese and Roman Stubbs, “U-Md. releases report on Jordan McNair, laying out timeline that led to player’s death,” *Washington Post*, September 21, 2018, https://www.washingtonpost.com/sports/colleges/u-md-board-of-regents-releases-report-on-jordan-mcnair-laying-out-timeline-that-led-to-players-death/2018/09/21/49331ea0-bda9-11e8-b7d2-0773aa1e33da_story.html.

⁵⁰⁴ Ibid.

⁵⁰⁵ Ellis McKennie, Twitter, October 20, 2018.

members of the Yale women's varsity crew team, led by team captain Chris Ernst, stripped naked in front of the director of Physical Education's office to protest the lack of shower facilities, a lack of a locker room for female athletes, amongst other equity complaints.⁵⁰⁶ If their demands were not clear enough, all nineteen women wore "Title IX" across their chests, quite literally arguing for equity amongst male and female athletes.⁵⁰⁷ Opening with the now legendary statement — "These are the bodies Yale is exploiting" — the women explosively linked student-athletics, capitalism and gender exploitation, recognizing that Yale consciously exploited their bodies to generate symbolic capital for the university. Their protest forced Yale to build locker rooms for female athletes, and provided the rowers with better materials to practice their craft. This demonstration helped spur the NCAA to enforce Title IX violations in earnest, leading to greater investments in female athletics.

Female student-athletes also protested against other injustices at their respective universities, notably broader societal injustices. In 1990, after a series of racist incidents at fraternity homes at the University of Texas in which one fraternity had spray-painted a car at a party to say "F— Coons" and "F— You N— Die," and another fraternity sold T-shirts for an annual basketball tournament with a Sambo caricature's head pasted onto Michael Jordan., Shola Lynch and Shuronda Robinson, student-athletes on the track team, helped organize a rally that saw more than 100 student-athletes, men and women alike, march throughout campus demanding both punishment for the fraternities' racist actions and equity for Black students on campus more broadly.⁵⁰⁸ As Lynch recalled, simply seeing that many athletes concentrated outside the athletic department shocked administration and staff alike. "The administration and the professors were shocked," They'd never seen a group [of athletes] come out and march."⁵⁰⁹ The protest won some important concessions from the administration. Lynch helped start the Minority Information Center, a place where minority students could find resources to help them with the transition to UT and Robinson was one of the center's first codirectors.⁵¹⁰

In contrast, Toni Smith's protest against the United States' invasion of Iraq in 2003 was quieter, but equally powerful. Toni Smith, a basketball player for the University of Manhattanville, turned her back to the U.S. flag during the national anthem to protest the United States' potential involvement in the war in Iraq.⁵¹¹ Smith's protest centered around the opportunity cost of war: by focusing on a war in Iraq, Smith argued that precious resources were diverted from investing in disadvantaged communities in the United States and a focus on income inequality was lost in the fever of nationalism. "I did it for my own self-respect and conscience. My stance is not a personal attack on Vietnam veterans or any war veterans. I know the flag represents people who have died for this country and I support them. But the flag means different things to everyone. "A lot of people blindly stand up and salute the flag, but I feel that blindly facing the flag hurts more people. There are a lot of inequities in this country, and these are issues that needed to be acknowledged.

⁵⁰⁶ New York Times Editorial Staff, "Yale Women Strip To Protest a Lack Of Crew's Showers," *New York Times*, March 4, 1976.

⁵⁰⁷ Ibid.

⁵⁰⁸ Joe Levin, "Thirty Years Ago, UT Student Athletes Fought for Racial Justice," *Texas Monthly*, July 28, 2020.

⁵⁰⁹ Ibid.

⁵¹⁰ Ibid.

⁵¹¹ Bill Pennington, "College Basketball; Player's Protest Over the Flag Divides Fans," *New York Times*, February 26, 2003, <https://www.nytimes.com/2003/02/26/sports/college-basketball-player-s-protest-over-the-flag-divides-fans.html?searchResultPosition=1>.

The rich are getting richer and the poor are getting poorer, and our priorities are elsewhere."⁵¹² Though Smith's principled stance was protected by the First Amendment, and steeped within her education at Manhattanville college, she received vitriol from many fans for exercising her right to protest.

The protests at the Universities of Missouri, Maryland Yale, Texas and Manhattanville all demonstrate the newfound power of student-athletes, an important legacy of student-athlete protest at Wyoming, Syracuse, Berkeley and Oregon State in the 1960s and 1970s. As these athletes eloquently argued, we must focus on elements of control and power if student-athletes are to be treated equitably. If we focus on only the economic portion of this relationship, if and how student-athletes are paid, and not how athletic departments and universities exist in a different space, negative space, that allows universities to exploit student-athletes, we can only solve part of the problem. Negative space was, and continues to be, essential to how universities exploit student-athletes, similar to how capital dominates labor. Name Image and Likeness (NIL) agreements, though a massive step forward, cannot be the only reform for the many current problems of student-athletics.

Even though student-athletes can be paid through NIL agreements, the lack of official regulations at state or federal levels allows for universities and corporations to exploit athletes while paying them far below their market value. NIL agreements also don't do enough on their own to fix inequitable power relations between university athletic departments and student-athletes; neither universities nor the NCAA have installed regulations covering NIL agreements, with the exception that universities cannot offer them. Thus, the negative spaces that athletic departments operate in have not been neutralized, but changed. Student-athletes do not have many official recourses against inequities within these agreements, an expression of the hyper-capitalist world unleashed with the NCAA abdicating its regulatory responsibilities. The NCAA's escape from its regulatory responsibilities occurred precisely because sport is often seen as a separate space onto itself, with different rules, regulations and social norms. We must first recognize that athletes are a hybrid of student and worker, not simply because the university can inequitably manage them by extracting capital and labor from them, but because they've been allowed to operate in a different form of spatial arrangements if we are to break the cycle of exploitation.

⁵¹² Ibid.

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