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SYMPOSIUM: PROFESSIONAL SPORTS AND THE LAW

INTRODUCTION

BOWIE K. KUHN*

I welcome this opportunity to introduce the *William and Mary Law Review's* Symposium "Professional Sports and the Law".

Quite apart from my responsibilities as Commissioner of Baseball, I have long followed the evolving interaction between sports and the law with great interest. One intriguing development has been the current notion that this relationship has produced and is governed by an independent body of legal doctrine and authority called "Sports Law", which only those specially trained or experienced are qualified to practice. This popular concept is in my view a misnomer because it obscures the real nature of the relationship: professional sports leagues operate within the same legal framework as most other industries; the general principles of the various traditional legal disciplines act independently to structure and regulate the phases of their business activity. The term "Sports Law" thus does our industry a disservice because it tends to oversimplify a process that is very complex indeed, involving intricate interactions between a variety of psychological, social, and economic forces.

In my opinion the problem stems from the immense amount of public attention, debate, and emotionalism surrounding professional sports. Although we obviously would not exist in the absence of such public interest, I suppose it is inevitable in such an atmosphere that complexities should be oversimplified, precedent misunderstood, and myths perpetuated. One small example of the latter is the seemingly ineradicable notion that the Supreme Court has

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declared that professional baseball is not a "business" but a "sport". It matters not that the Court has never so held; indeed, it has repeatedly used the word "business" in characterizing our game.¹ The reality is again somewhat more complex than the myth: baseball is *both* a sport and a business.

This Symposium is timely and appropriate, and my perusal of the articles confirms that it should fill a very real need. A genuinely disinterested and scholarly review of some of the novel legislative and judicial developments that have taken place in our industry is conspicuously lacking in the legal literature. Regrettably, some previous efforts that have come to my attention, including some by institutions of national reputation, have approached the subject with evident preconceptions and biases that have been altogether too apparent.

This Symposium should help even the balance. Although I do not agree with all the points of view expressed in the articles, it is clear that the editors strove to avoid the emotionalism that has affected other similar efforts. The authors who have contributed their time, energy, and talents not only approached their subjects with objectivity, but also endeavored to provide a real measure of guidance to the practitioner. I believe that in general they have achieved their objective.

1. *Flood v. Kuhn*, 407 U.S. 258, 282 (1972); *Radovich v. National Football League*, 352 U.S. 445, 452 (1957); *United States v. Shubert*, 348 U.S. 222, 229-30 (1954); *Toolson v. New York Yankees, Inc.*, 346 U.S. 356, 356-57 (1953); *Federal Baseball Club v. National League*, 259 U.S. 200, 208 (1922).