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## ACCEPTANCE

This dissertation, FAILING AT COLLEGE FOOTBALL REFORM: THE JAN KEMP TRIAL AT THE UNIVERSITY OF GEORGIA, by MICHAEL JOHN FULFORD, was prepared under the direction of the candidate's Dissertation Advisory Committee. It is accepted by the committee members in partial fulfillment of the requirements for the degree Doctor of Philosophy in the College of Education, Georgia State University.

The Dissertation Advisory Committee and the student's Department Chair, as representatives of the faculty, certify that this dissertation has met all standards of excellence and scholarship as determined by the faculty. The Dean of the College of Education concurs.

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Michael John Fulford

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## ABSTRACT

### FAILING AT COLLEGE FOOTBALL REFORM: THE JAN KEMP TRIAL AT THE UNIVERSITY OF GEORGIA

by  
Michael J. Fulford

Throughout the history of college football, there have been efforts to reform the system and stop improprieties, yet conflict between gaining academic and athletic prowess at colleges remained a central theme. In the 1980s, the Jan Kemp trial involving the University of Georgia demonstrated this clash between revenue-generating athletics and academic integrity. This historical study is an in-depth analysis of archives, legal documents, interviews, and other textual evidence that demonstrated how the factors surrounding the Jan Kemp case evolved and how key administrators and faculty members reacted to pressure related to academic and athletic conflicts. An analysis of past reform efforts in college football identified presidential control, commercialization of athletics, and corruption of the student-athlete ideal through preferential treatment as the key issues universities must address in relation to their football programs. An analysis of the University of Georgia in relation to these issues showed that pressure to increase revenue from football led to a lack of presidential control over academic-athletic conflicts and allowed preferential treatment of athletes to persist at the expense of academic integrity.

FAILING AT COLLEGE FOOTBALL REFORM: THE JAN KEMP TRIAL  
AT THE UNIVERSITY OF GEORGIA

by  
Michael J. Fulford

A Dissertation

Presented in Partial Fulfillment of Requirements for the  
Degree of  
Doctor of Philosophy  
in  
Educational Policy Studies  
in  
the Department of Educational Policy Studies  
in  
the College of Education  
Georgia State University

Atlanta, GA  
2008



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## TABLE OF CONTENTS

		Page
Abbreviation .....		v
Chapter		
1	THE PROBLEM.....	1
	Introduction.....	1
	Research Questions.....	6
	Research Design.....	7
	The Intent of this Study.....	10
2	LITERATURE REVIEW.....	12
3	METHODOLOGY.....	47
	Deciding on a purposeful sample of documents and people.....	47
	Interview protocol and questions.....	49
	Analysis of Hue Henry’s legal files.....	50
	The University of Georgia archives.....	52
	Analysis of secondary sources.....	53
4	ANALYSIS OF THE EVIDENCE.....	54
	Developmental Studies.....	54
	Promotion and Tenure.....	58
	Preferential Admissions of Athletes.....	62

	Administrative Exiting of Athletes.....	70
	Other Preferential Treatment of Athletes.....	77
	The Events that Led Kemp to Sue.....	79
	Responses After the Trial.....	90
	The Faculty's Response to the Jan Kemp Trial.....	93
5	CONCLUSION, IMPLICATIONS & RECOMMENDATIONS.....	103
	Commercialization of College Football.....	104
	Presidential Control.....	109
	Recommendations for Future Research.....	115
	The Challenges of Athletic Reform.....	117
References	.....	121
Appendixes	.....	129

## ABBREVIATIONS

BoR	Board of Regents
UGA	The University of Georgia
NCAA	National Collegiate Athletic Association
IFA	Intercollegiate Football Association
IAAUS	Intercollegiate Athletic Association of the United States
Penn	The University of Pennsylvania
SMU	Southern Methodist University
SEC	Southeastern Conference
FERPA	Federal Educational Rights to Privacy Act
SAT	Scholastic Aptitude Test
GPA	Grade Point Average

## CHAPTER 1

### INTRODUCTION

From the beginning, fans and boosters have driven college football and to a point where it exudes a tremendous level of power on college campuses today. The 80,000 screaming fans in a stadium watching 22 young men playing football exemplifies the popularity of this sport. The combination of spectators and money has created a powerful enterprise. In his book, Rammer Jammer Yellow Hammer, Warren St. John described the love for college football in Alabama like this, “To understand what absolute minority non-fans are in Alabama, consider this: they are outnumbered there by atheists.”<sup>1</sup>

Football is arguably the most popular and most influential sport in the United States of America (US). In Lawrenceville, GA, about 40 miles from the University of Georgia (UGA), the Board of Regents (BoR) opened a new college, Georgia Gwinnett College. In his proposal to the county commissioners concerning plans for the future of the college, President Daniel Kaufman quipped, “the parking lot of a nearby Wal-Mart Supercenter would be the perfect location for a football field.”<sup>2</sup> Kaufman’s statement may be more a prophecy than a joke. Since the first intercollegiate football game between Princeton and Rutgers in 1869, football has become a major component of the perception and culture of college. Football has been used as a public relations tool to

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<sup>1</sup>Warren St. John, Rammer Jammer Yellow Hammer (New York: Crown, 2004), pp.1-2. A poll done by the Mobile Register showed 90% of the state’s citizens described themselves as college football fans.

<sup>2</sup> Young, Camie, “College Planning Future of Campus” Gwinnett Daily Post. Sunday February 11, 2007, sec. A, p. 10.

increase exposure for colleges and increase revenue in the form of tuition, donations, tickets, and licensing. However, few football programs bring in millions of dollars and there are many others that lose money. The National Collegiate Athletic Association (NCAA) recognizes different levels of competition, called divisions. The majority of revenue-producing sports are in what the NCAA calls Division I-A, and within this division, the largest revenue-producing schools play football. In the NCAA's 2004-2006 study of revenues and expenses at Division I-A institutions, 19 out of the 119 institutions that make up the Football Bowl Subdivision had a positive net revenue during that time period.

The average net generated revenues for those surplus programs in 2006 was \$4,291,000, while the average net deficit for the remaining (deficit) programs was \$8,923,000. The gap between the financially successful programs (\$13,214,000 in 2006) and others continues to broaden and has almost doubled since 2004.<sup>3</sup>

The study showed that football does bring in a lot of money, but in the end, the majority of the institutions participating in intercollegiate athletics are running on a deficit and need additional revenue from the university to at least break-even. For those colleges where football does produce revenue, the effect and influence it has on the institution is even stronger. At many colleges and universities with revenue-producing football programs, the athletic department reports directly to the president. Athletic directors and football coaches have complex contracts that include television revenue and exemption clauses. Provosts and vice-presidents are rarely compensated at the same level or receive a similar level of attention from the institution's chief executive. On Saturdays in the fall, stadiums are filled with students, faculty members, staff members,

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<sup>3</sup> Daniel Fulks. NCAA 2004-2006 Revenues and Expenses of Division I Intercollegiate Athletics Programs Report. (Indianapolis, IN:NCAA, March 2008). p. 13.

alumni and alumnae, and other fans cheering and showing school spirit. Outside the stadium, there is trash from tailgating, broken bottles, vomit, vandalism, and other forms of activities that might create student, faculty, staff, alumni and alumnae, and community outrage were it not a football game day. I know this because I have been a participant in the culture as a student, a fan, and an alumnus of the University of Georgia. Having lived the life as a fanatic, attending football games, screaming at opposing players, and holding football up on a pedestal in relation to my life, I decided I needed to understand this perspective I share with others and my perspective as a researcher in higher education to see where there is congruence or contrast. Part of what I learned is the undesirable effects of football reach beyond the stadium and into the classroom. Football provides a critical juncture where the commercialization and promotion of intercollegiate athletics conflicts with the academic integrity of an institution.

Preferential treatment of athletes and academic abuses are not uncommon at universities with college football. The revenue and exposure that athletics brings to a university creates situations where superstar high school athletes who do not meet the general standards for admission to an institution are given special treatment. Wealthy boosters pay exceptional athletes cash, cars, and other gifts as incentives for coming and staying at their university.<sup>4</sup> Examples of preferential treatment can be found regularly and are a continuous topic in the news. Athletes failing a class have grades changed while other athletes are guided by coaches to take easier classes in order to retain athletic eligibility. The legitimacy of a college athlete's academic classes may be questioned due to incidents like those that happened at the University of Georgia as recently as 2002. In

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<sup>4</sup> Murray Sperber, *College Sports Inc.: The Athletic Department versus the University* (New York: Henry Holt and Company, 1990).



the particular incident, the University of Georgia college basketball program was suspended and coaches were fired when it was found that athletes were taking a class on basketball.<sup>5</sup> Some of the tests included questions such as, how many goals are on a basketball court?<sup>6</sup>

Despite new scandals, commercialization of college football continues and the sport still thrives. Programs that face the NCAA's so-called death penalty are able to survive abolition and rebuild after time.<sup>7</sup> With each new scandal, the NCAA and other administrators tinker and tweak the system. However, athletic programs and universities adapt to the changes and find other ways to gain a competitive edge. Corruption continues, athletes receive special treatment, and the money surrounding college football increases for the few most successful football programs. Richard Ensberger, a writer and editor at Newsweek magazine, summarizes the conflict between athletics and academics that arises due to the enormous amount of money generated from college football at southern schools like the University of Georgia:

While some university administrators are in thrall to the football program, others have fought mostly losing battles to reign in overzealous boosters or coaches who've cut ethical corners to keep the football team on the fast track.<sup>8</sup>

The breadth and depth of corruption in intercollegiate athletics in relation to academic integrity has grown since the inception of the game. Throughout the history of college football, there have been efforts to reform the system and stop improprieties, yet the

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<sup>5</sup> Deepika Rao, "University Report Confirms Allegations," *The Red and Black*, 3 March 2004.

<sup>6</sup> J. Llewellyn, "Whose Ethics? Whose Leadership?," *The Power of Management Capital* (2003).

<sup>7</sup> John Sayle Watterson, College Football: History, Spectacle, Controversy (Baltimore: Johns Hopkins University, 2000), p. 374.

<sup>8</sup> Richard Ernsberger, Jr., Bragging rights: a season in the SEC, (New York: M. Evans & Company, Inc.), p. 10.

conflict Ernsberger describes between gaining academic and athletic prowess at a college remains a central theme.<sup>9</sup>

The Jan Kemp trial at the University of Georgia uncovered academic abuses and unethical behavior that continued for years to keep key athletes eligible to play football for the university. Jan Kemp was a Developmental Studies professor at the University of Georgia who spoke out against academic abuses and preferential treatment toward athletes in the Developmental Studies program. Many of the students involved were members of the football team.

On February 3, 1982, Jan Kemp was demoted from her position as Coordinator of the English component in the Developmental Studies program. Subsequently, her contract was non-renewed. Following the non-renewal of her faculty contract, she filed a lawsuit against the Director of Developmental Studies, Leroy Ervin, and the Vice-President for Academic Affairs, Virginia Trotter. Kemp claimed that her demotion and dismissal were a result of her speaking out against preferential treatment of athletes.<sup>10</sup> Whether or not her actions were the real reason for her dismissal became an afterthought during and after the trial. The role of college football at the University of Georgia and its influence on the decisions of administrators and faculty members became the focus of the trial and in the public media. The Jan Kemp trial at the University of Georgia demonstrates the clash between revenue-generating athletics<sup>11</sup> and academic integrity. In

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<sup>9</sup> John Sayle Watterson, College Football: History, Spectacle, Controversy (Baltimore: Johns Hopkins University, 2000), p. 374.

<sup>10</sup> Kemp, J., Interview by author, tape recording, November 22, 2006.

<sup>11</sup> For the purposes of this study, revenue-generating athletics are considered sports that generate a significant amount of money for the institution and specifically the athletic programs of the university.

addition, it provides insight into why a university activity in conflict with academic goals is able to persist with essentially the same values and traditions that create conflict.

### Research Questions

The Jan Kemp trial was not a sudden phenomenon; the events involving Jan Kemp occurred over a span of nearly ten years. In addition, there are other factors that set the stage for this case before Jan Kemp arrived at the University of Georgia and there are suggestions that the University of Georgia continues to see the impact of this case in the present. Scandals and controversy have been a part of college football throughout its history. When these episodes in college football history occurred, the administrators involved at the universities found themselves at different points on the continuum between supporting academic integrity and supporting athletic prowess. Academic integrity supporters insisted that football was secondary to the academic mission and that academic standards should never be lowered for the sake of maintaining a competitive advantage in football.<sup>12</sup> In opposition to this camp, the athletic prowess camp focused on the financial revenue, athletic prestige, and popularity that college football brought to the university. These camps created the external and internal pressure that affected the decisions made by administrators, faculty members, and students when they addressed academic integrity issues involving athletics. Additionally, many of the people involved found themselves caught in the crossfire of competing interests. Each time a new effort to reform college football emerged, leaders of the effort were forced to address these two camps. According to John Thelin, the major reform efforts in the history of college football, beginning with the Carnegie Report of 1929, identified similar issues and similar

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<sup>12</sup> John Sayle Watterson, College Football: History, Spectacle, Controversy (Baltimore: Johns Hopkins University, 2000), p. 374.

solutions. These themes are presidential control, commercialization of athletics, and corruption of the student-athlete ideal through preferential treatment.<sup>13</sup> Presidential control concerned the level of involvement the president of the institution had in addressing decisions made about athletics. Commercialization of athletics involves making decisions concerning the football program based on economic rewards and through increasing revenue regardless of the impact on students or academic integrity. Preferential treatment of athletes involves creating separate standards or offering additional help to athletes in the form of lowered admission standards, changing grades, and allowing extra time to complete assignments.<sup>14</sup> Throughout this study, the following research questions guided the analysis of historical data.

1. How did these themes play a role in the Jan Kemp trial and the relationship between academic integrity and athletics?
2. What internal and external factors created an environment for this scandal and how did it affect the decision making of key administrators?

### Research Design

This is an historical study that utilized data collected from primary and secondary sources of textual evidence and interviews. Primary sources included documents located in the archives at the University of Georgia; files provided by J. Hue Henry, attorney for Jan Kemp; and Jan Kemp's personal files. Additional primary data were collected through interviews with specific individuals that provided a unique internal perspective to the phenomenon. The data were then analyzed for themes, patterns, and relationships

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<sup>13</sup> John Thelin, Games colleges play, Baltimore & London: Johns Hopkins Press, 1996, p. 197.

<sup>14</sup> John Thelin, Games colleges play, Baltimore & London: Johns Hopkins Press, 1996.

that provide an interpretation of the relationship between college football and academic integrity at the University of Georgia.

James Key provides a definition of the historical method of research in education. He states that researchers using the historical method “are interested in reporting events and/or conditions that occurred in the past. An attempt is made to establish facts in order to arrive at conclusions concerning past events or predict future events.”<sup>15</sup> One form of historical research design consists of identifying and defining a problem to be studied, collecting evidence through primary and secondary sources, analyzing and evaluating the data, formulating a hypothesis, and reporting the analysis of these findings. Key suggests that evidence used for historical research needs to be criticized externally. External criticism consists of authenticating the evidence for legitimacy. If the evidence is considered legitimate, then the next step is to evaluate the accuracy of the data.

John and Jean Comaroff suggest that “texts must be understood within contexts and equations of power and meaning must be assigned value.”<sup>16</sup> This study involves a court trial where individuals spoke on behalf of the plaintiff or defendant. According to Comaroff, the data collected from the trial must be placed within the proper context of when and where the statements were made as well as the actual meaning of the statements. Last, the decisions made by administrators at the university must also be analyzed from the perspective of political history. In particular, this study dealt with what Peter Clarke described as “manipulation by elites.”<sup>17</sup> This view of political history

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<sup>15</sup> Key, James, (1997) Research Design in Occupational Education. Oklahoma State University. [www.okstate.edu/agedcm4h/aged5980a/5980/newpage19.htm](http://www.okstate.edu/agedcm4h/aged5980a/5980/newpage19.htm).

<sup>16</sup> Comaroff, J. L., and J. Comaroff. Ethnography and the Historical Imagination: Westview Press, 1992.

<sup>17</sup> Peter Clarke, "Ideas and Interests," *Journal of Interdisciplinary History* 12, no. 1 (1981).p. 47.

focuses on how individual actors or groups gain and maintain power. Additionally, these groups or individuals manipulate the system to preserve their agenda. The study utilized a combination of primary and secondary sources. Evidence of this type allowed the researcher to analyze the situation from multiple contexts that presented data situated at a local level and provided evidence that addressed the larger context surrounding the situation.

The University of Georgia archives have a number of collections related to the Jan Kemp trial and other important files concerning key executives and committees. The archives provided a blend of primary and secondary sources that were used to create a context for the Jan Kemp case. Primary sources of information included agendas, memoranda, and letters from the files of administrators at the University. In addition, the archives provided secondary sources such as newspaper clippings and faculty newsletters.

Jan Kemp provided documents from her personal files including an unpublished autobiography. In addition, Kemp agreed to sit for an interview to discuss her experiences. J. Hue Henry, who served as Jan Kemp's attorney and a key litigator in the trial, granted the researcher full access to all files involved in the Jan Kemp trial. Included in these files were court transcripts, depositions, personal notes used during the trial, notebooks that outline the evidence used in the trial, policy manuals from the University of Georgia, a tape recording of a faculty meeting used as evidence, magazine articles, and newspaper publications highlighting the trial. In addition, Henry agreed to sit for an interview to discuss his experience with the Jan Kemp trial.

Secondary sources from scholarly works, NCAA reports, and other media sources provided data that addressed the larger context surrounding the Jan Kemp case. An

analysis of these sources demonstrated that the evolution of the sport itself and the off-the-field academic scandals and controversy were woven throughout the history of college football. The history of college football on and off the field forms the context in which the issues from the Jan Kemp trial emerged at the University of Georgia.

### The Intent of This Study

Although there are relentless, but fruitless efforts to reform college football, it appears that at the University of Georgia, the greatest impetus to athletic reform came as a result of the Jan Kemp trial.

John Thelin provides a thorough account of the off-the-field history of college football that consisted of scandals and reform efforts that occurred as a result of a continuous power play between revenue generating sports and academic integrity. Thelin argues this point in the preface of his book, Games Colleges Play.

All too often significant reform effort has been illusory at worst and transient at best, inflated by a foundation's good intentions to seize the moment and to appear to be making consequential progress. Meanwhile, chronic abuses persist. Most troubling is that any attempt to instill strong academic standards and educational values into highly commercialized sports teams runs the risk of antagonizing those who like the established programs.<sup>18</sup>

This study provides an in-depth look at the evolution of a controversial scandal involving the intersection of revenue producing intercollegiate athletics and the academic integrity of an institution, taking themes provided by past literature and studies of college football reform and applying them to the themes that emerged at the University of Georgia as a result of the Jan Kemp trial.

The Kemp trial uncovered academic abuses and preferential treatment of athletes and students who were the children of certain politicians. During the trial, administrators

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<sup>18</sup> J. R. Thelin, "Games Colleges Play. Scandal and Reform in Intercollegiate Athletics," (1996).

and the president of the University of Georgia defended their decisions to admit students who were illiterate, but could play football. By taking a closer look at how the Kemp trial unfolded, there is an opportunity to gain a more detailed understanding of how the power and influence of college football affected the choices and decision making of academic administrators and faculty members at the University of Georgia.



## CHAPTER 2

### LITERATURE REVIEW

This study looks closely at how the power and influence of college football affected the decision making of administrators and faculty at the University of Georgia in relation to the Jan Kemp affair. The literature review establishes the context surrounding and building up to the events that impacted the Jan Kemp trial. First, the early history of college football is discussed, with emphasis placed on early events that established the influential role of college football. Second, early reform efforts in college football are discussed, including its near abolition in 1905 and the first major study of college athletics in the Carnegie Report of 1929. The third section begins with the 1940s and leads into the growth of college football financially and in popularity during the years following World War II. Finally, a brief history of college football at the University of Georgia is discussed to provide a local context within the larger national history of college football.

In 1869, Princeton University and Rutgers University engaged in what is considered the first intercollegiate football game in the United States. The game they played that day more resembled the game of soccer than the version of football played today, but it is recognized by historians as the starting point for college football. The soccer version of the game soon evolved into a game that resembled rugby. In 1873, Yale, Princeton, Rutgers, and Columbia Universities held a meeting to establish formal

rules for college football. At this time, football was primarily run by students and alumni who stayed involved after graduation.

Beginning in 1880, football began to evolve into the version played today.

According to football historians, the transformation of football is due primarily to the innovations of Walter Camp. Camp is known as the “Father of American Football.”

During his time as a student at Yale he began to push for changes to the game and when he graduated, he became even more influential in changing the rules. Camp regularly attended the athletic association meetings and helped to coach the Yale team. Camp was well respected and even traveled to California to coach the Stanford University team. At this time, there were no rules governing athletic eligibility so alumni and even faculty members were often members of the football team. In 1878, Camp proposed changing many of the old rules of the game. His proposals were rejected for a couple of years, but he continued to propose the changes. In 1880, the rules convention for college football agreed to lower the number of players for one team on the field from 15 to 11 which is still the current rule for today. Additionally, they adopted Camp’s proposal for a possession rule that allowed a team to retain possession of the ball without having to fight for it each possession as was the case in rugby. This rule changed the face of American football from hence forward. This one rule led to many further changes and the evolution of the game of football played in the United States today. During the early 1880s, the rules convention and Camp created a down and distance rule that relegated the number of plays a team had to move the ball 5 or 10 yards. This rule then led to the idea to paint the field with yard lines and create a grid on the field which led to the term “gridiron.” Camp

continued to work to change the rules on the field, but he also became instrumental in changes off the field.<sup>19</sup>

As college football grew in popularity and began to create revenue, students no longer ran the football programs. They focused on being players, and alumni like Walter Camp ran the program. In a short time, Walter Camp successfully transformed a game developed and run by students into what John Sayle Watterson described as a “professional, systematic, businesslike enterprise.”<sup>20</sup> Camp had dropped out of medical school and went to work in business for a clock company. He learned about financial management and business organization and brought these skills to his next transformation of college football. At Yale, Camp controlled the funds as treasurer of the athletic association and in 1899 he was hired officially to become the advisor on athletics. Camp recognized that large amounts of money could be made on football and the students were not experienced enough to manage the program and play. Camp became instrumental in the promotion of college football as a commercial entity that did not have student involvement as a priority of the activity. He continued to expand his vision and formed a Graduate Advisors Committee that consisted of alumni from other institutions that played college football. Walter Camp was turning college football into a business and showed little concern for academics:

Neither Camp nor his colleagues had much sympathy for academic concerns, especially faculty interests or complaints. In their view, students came to college for four years of social and educational immersion, but for Camp and his friends, the struggle for supremacy on athletic fields defined the college’s identity.<sup>21</sup>

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<sup>19</sup> John Sayle Watterson, College Football: History, Spectacle, Controversy (Baltimore: Johns Hopkins University, 2000).

<sup>20</sup> Ibid., p. 22.

<sup>21</sup> Ibid., p. 23.

The popularity of college football was bringing attention to institutions, but not for academic reasons. Campus leaders used the popularity and exposure of football to promote themselves and their institution. (This practice is still seen today during televised football games where the participating schools have several commercial advertisements showcasing their institution). Football was a public relations vehicle for college presidents and chancellors.<sup>22</sup> Harvard, Yale, and Princeton had the funding to run their programs without the need for much outside support. However, other institutions had to look outside for financial assistance and “without fully realizing it, inexperienced faculty and presidents were setting themselves up to be held hostage by alumni and boosters.”<sup>23</sup>

Alumni and boosters became involved in the purchasing of supplies and equipment in exchange for tickets. Colleges also made money by playing games on the road in big cities. College football became a marketable product that was used by universities to increase prestige. Colleges used the example set by Harvard, Yale, and Princeton to create winning teams and huge spectacles that generated revenue. In many cases, however, fielding a winning team meant they needed to recruit players whose only role at the college was to participate in football. These players never went to classes and eventually left the college after their playing time was finished.<sup>24</sup> The desire to win games, increase revenue, and promote the college created the unique bond between college football programs and the institutions that supported them. According to Frederick Rudolph, “Once the game enlisted the support of alumni and administration,

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<sup>22</sup> John Thelin, Games colleges play, Baltimore & London: Johns Hopkins Press, 1996.

<sup>23</sup> Ibid., p. 45.

<sup>24</sup> Ibid., p. 45.

there was no stopping its growth. For, once the sport had been accepted, the games had to be won. Americans lacked a psychology for failure.”<sup>25</sup>

As football grew under the new rules developed by Walter Camp, the game also became more violent. According to Watterson, faculty members at some colleges became concerned about the effect the game was having on students.<sup>26</sup> Recognizing the conflict, Harvard’s president from 1869-1909, Charles Eliot, became the biggest opponent of college football. Eliot and the faculty at Harvard between 1884 and 1906 continually tried to abolish football at Harvard. The faculty considered the game too violent and a distraction from the intellectual pursuits it considered the focus of a college education. Since the athletics committee at Harvard was made up primarily of faculty, they did succeed in suspending football on occasion. However, extreme pressure from students and alumni ultimately prevailed. Harvard’s inability to gain control over football was directly related to Yale and Princeton’s unwillingness to reform football. For example, in 1885 the Harvard faculty athletic committee was able to convince the faculty to suspend football for a year. However, Yale and Princeton were unwilling to go along with Harvard. Since that meant Yale and Princeton would get to play for the championship, Harvard students and alumni began to pressure the committee. Yielding to the pressure, the faculty at Harvard reconsidered and football was reinstated.<sup>27</sup> Eliot was never able to totally ban football from Harvard, but he did go on a crusade to reform the sport. He proposed changes such as not allowing freshmen to participate and having football played in alternating years or seasons so students could recover physically and

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<sup>25</sup> F. Rudolph, The American College and University: A History (University of Georgia Press, 1990). p. 381.

<sup>26</sup> Watterson, College Football, p. 58.

<sup>27</sup> Watterson, College Football, p. 23.

devote time to studies. However, the concerns of academicians such as Eliot fell upon deaf ears as revenue streams grew and the popularity of the sport increased.

According to both Watterson and Rudolph, the power of football to draw attention to colleges, the involvement of alumni and boosters to pay for the program, and the desire to field a winning team created a situation where schools placed a premium on their athletic program in spite of any possible effects on the academic integrity of the college.<sup>28</sup> As college football continued to grow and spread to more institutions, it became a greater draw for players and fans. Football players were considered among the elite members of the college community; conversations on campus were about the star athletes and not the most recent lectures from faculty members. According to Frederick Rudolph, “the game became so widely adopted that for the first time since the founding of Harvard College in 1636, colleges began to recognize the existence of intercollegiate relations.”<sup>29</sup> Whether it was considered a distraction or not, college football became a recruiting tool to increase enrollment and a powerful public relations tool for the administration. Despite its popularity, in the first thirty years after the first game in 1869, college football became embroiled in controversy. Supporters viewed football as a way to develop character and build strength. Opponents saw the game as a brutal distraction that had become too commercialized and professional. The desire to have a winning team led to unethical practices to gain an edge and expectations of preferential treatment for star athletes:

One college football player so learned the price of his usefulness that without fear of failure he presented his laundry bill to the team manager just before game time with the words: “I cannot pay it. You pay it or I do not play.”<sup>30</sup>

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<sup>28</sup> Watterson, College Football, p. 23 & Rudolph, American College and University.

<sup>29</sup> Rudolph, American College and University, p. 375.

<sup>30</sup> Rudolph. p. 375.

In 1905, there were 18 deaths and 149 serious injuries related to football.<sup>31</sup> These staggering data caught the attention of not only college presidents, but also the President of the United States, Theodore Roosevelt. Roosevelt was an athlete himself and did not want to see football simply abolished. Roosevelt intervened at that time and met with administrators at Harvard, Princeton, and Yale. Roosevelt's message was clear, 'Reform the game or it will be outlawed, perhaps even by an Executive Order of the President himself.'<sup>32</sup>

At its point of potential demise, football became a central issue for the country. A meeting of the country's most prestigious academic institutions and the highest office in the land became the collaboration needed to save college football. From this meeting, changes were made and schools worked towards reform on the field. In December of 1905, Henry McCracken organized a conference that took reform to the next level. As president of New York University, McCracken was concerned about the injuries and deaths that occurred as a result of football. He made a plea to Harvard University President Charles Eliot to lead an effort to discuss reforming the playing rules of football. Eliot told MacCracken that he was not interested in reform, but only interested in abolition of football. The reason Eliot gave to MacCracken for not participating in simple reform was that "deaths and injuries are not the strongest argument against football, that cheating and brutality are profitable is the main evil."<sup>33</sup> Despite Eliot's unwillingness to participate, MacCracken pulled together a conference that involved institutions other than Harvard, Princeton, and Yale.

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<sup>31</sup> Roosevelt as quoted in, K. Hawes. "History of the Ncaa: The Ncaa Century Series." The NCAA News (1999). p. 2.

<sup>32</sup> Ibid.

<sup>33</sup> Watterson, College Football, p. 72.

At the time, these three institutions were called the Big Three because they dominated the football landscape in the country and had formed their own association called the Intercollegiate Football Association (IFA). This point is important because these three schools were the most prominent in the academic and athletic realm at the time. Additionally, they were the greatest revenue generators of all the institutions participating in football, so other institutions rarely made decisions that challenged these three institutions. According to Thelin, these three institutions were “most eligible to be leaders” in college football reform.<sup>34</sup> MacCracken brought together many of the institutions that played football and together they decided to make real reforms to the game. At a meeting on March 31, 1906, the Intercollegiate Athletic Association of the United States (IAAUS) was born. The IAAUS persisted and eventually became the NCAA in 1910. The organization spent the next few years working on reforming football on the field by creating new rules and systems that controlled the game. However, it turned to individual institutions and organizations such as the Carnegie Foundation to study and report on off the field issues such as academic integrity.

As the NCAA’s influence grew, so did the number of sports that conformed their rules to those put together by the NCAA. By the end of World War I, the NCAA had 170 institutional members and responsibility for 11 men’s sports.<sup>35</sup> As football’s popularity grew, so did the preferential treatment, subsidizing of athletes, and violations of amateurism. Football became a greater priority than the pursuit of academic endeavors

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<sup>34</sup> Watterson, *College Football*, p. 51 and Thelin, *Games Colleges Play*, p. 17. Both authors refer to Harvard, Yale, and Princeton as the big three. Thelin cites sportswriters and college football fans as the originators of this term since they were not a part of any conference at the time.

<sup>35</sup> Hawes, K. "History of the Ncaa: The Ncaa Century Series." *The NCAA News* (1999). p. 3



and academic leaders became tired of the conflict.<sup>36</sup> The NCAA left these issues for the institutions to handle and it focused more on issues on the field since that was the original charge given to the IAAUS by President Roosevelt in 1905. However, it did make continued requests to the Carnegie Foundation to do a study of intercollegiate athletics. Under the influence of Henry Pritchett, president of the Foundation, the Carnegie Foundation eventually began a study of intercollegiate athletics.

Pritchett's work at the Foundation had led to other major studies such as the Abraham Flexner report of 1910 that studied medical schools and became a model for future research done by the foundation.<sup>37</sup> Pritchett understood that football attracted students to the college. However, Pritchett felt football was a distraction from the academic purpose of higher education. He even went as far as to make a list of perceived evils in college athletics:

- The paid coach;
- Gate receipts;
- Training tables (meals);
- Special railroad cars;
- Demoralizing publicity;
- The unconscionable amount of time devoted to training;
- The diluting of standards.<sup>38</sup>

In May of 1923, Pritchett proposed to the Foundation's board that it support a study of college athletics. After Abraham Flexner's study of medical education, the foundation had supported studies of legal education, engineering schools, and public school education. The board did not show much interest in a study of athletics, although it funded a small study done by the Southern Association for the study of college sports in

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<sup>36</sup> Watterson, College Football, p. 158-159.

<sup>37</sup> Ellen Lagemann, "Surveying the Professions," in The History of Higher Education, second edition, ed. Lester F. Goodchild and Harold S. Wechsler (Needham Heights, MA: Simon and Schuster, 1997), 395.

<sup>38</sup> Watterson, College Football, p. 160.

the South. After this study was awarded a small grant, other critics and reformers began to submit proposals. Eventually in 1925, the foundation allowed Howard Savage to do a study of athletics in England. After looking at Savage's attention to detail in that report and after receiving a request from the NCAA to conduct a larger study of schools in the United States, it approved a study of college athletics by Savage to begin in 1926.

Savage created a team of investigators that visited individual schools and conducted a number of interviews at colleges around the United States. Savage's report looked at college athletics including intramurals, training, and public relations. The study looked overall at all athletics, but a focus on football continued to emerge as Savage's research team investigated athletics at each college. In particular, the section of the report dedicated to recruitment and subsidizing of athletes gained the most notoriety and controversy. Of the 130 institutions studied by Savage's team, very few received high marks for not subsidizing athletes or engaging in unethical recruitment practices.

According to Watterson, the report primarily documented issues related to football and was the first study "that documented the various forms of largely surreptitious actions involved in supporting athletes."<sup>39</sup> Many of the activities cited in the report dealt with loans from boosters, on-campus and off-campus employment that resulted in very little work being done by the athlete, and the awarding of scholarships to athletes for non-athletic purposes such as leadership. The report also found instances of athletic departments using special tutors to help keep athletes eligible.

The Carnegie Report was released in late October of 1929. Though the report competed in the media with the stock market crash, it received much attention.

Newspapers ran stories about the report and college presidents began the task of

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<sup>39</sup> Ibid., p. 166.

defending their institutions. A common phrase uttered by presidents was, “If cheating took place, I did not know it in my official capacity.”<sup>40</sup> Coaches and athletic directors showed disdain for the report and questioned the validity of the study.

The report did not look to the NCAA or the faculty to address these issues. Savage looked to college presidents as the cause of the problem. According to Savage, ‘such are the position and the powers of the American College president, that once having informed himself of the facts, and if he had moral fortitude, he would eliminate the problem.’<sup>41</sup> The Carnegie Report was the first comprehensive study of college athletics. The major themes uncovered in the Carnegie Report were lack of presidential control over athletics, the commercialization of athletics, the limited role of the faculty in athletics, and the continued corruption of athletics as seen through preferential treatment and unethical recruiting practices.

While the Carnegie Report was the greatest reform canon of the 1920s, it was the events at the University of Chicago in the 1930s that offered a rare example of presidential control over athletics. When Robert Hutchins became president at the University of Chicago in 1929 he and faculty members at Chicago began the task of transforming the academic experience of undergraduates. According to Watterson, “in much the same way that Harvard had revolutionized its curriculum with Eliot’s elective system, the University of Chicago abolished required courses for freshmen and sophomores and made class attendance voluntary.”<sup>42</sup> Students at Chicago now had to follow a curriculum that led to a qualifying examination. The increased rigor of academics at Chicago discouraged many athletes from playing football. To coincide with

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<sup>40</sup> Ibid., p. 172.

<sup>41</sup> As quoted by Howard Savage in Watterson, College Football, p. 174.

<sup>42</sup> Watterson, College Football, p.192.

the academic changes, Chicago's long time football coach and athletic director, Amos Alonzo Stagg, was required to resign due to his age. Hutchins then hired a new athletic director, T. Nelson Metcalf. Metcalf did not share the same love for big-time football that had been a part of Chicago's history up to this point. Between 1935 and 1939, the University of Chicago football team endured losing seasons and embarrassing losses to traditional rivals like Michigan, Harvard, and Illinois. By 1939, Hutchins had convinced some trustees that Chicago should abolish football to protect its players from harm and to not embarrass the school any further. He was able to convince people that despite a terrible football team for over a decade, Chicago's fundraising had not dropped and by moving forward with abolition, Chicago would make a statement about the role of athletics at Chicago.<sup>43</sup> Hutchins serves as a rare example of a college president becoming extremely involved in challenging the role of football at a university. Unlike other reform efforts and other college presidents, Hutchins was not concerned with reforming athletics beyond Chicago. He focused his attention on how football and academics were related at Chicago and made decisions according to their specific situation.

Shortly after the University of Chicago abolished football in 1939, the NCAA, under the leadership of William B. Owen from Stanford, sought to define the amateur athlete and began to define the role of athletics in the academic realm. In its bylaws, the organization began the process of establishing itself as a governing body to include enforcement of rules set forth by the association. The organization had never seen itself as an enforcer of rules since its inception in 1906. The NCAA had followed a tradition of Home Rule. The Home Rule doctrine meant that each institution that was a member of the NCAA had autonomy over its athletic program including salaries, eligibility, ticket

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<sup>43</sup> Ibid., p. 194-196.

sales, and building facilities. The NCAA viewed itself as an organization that made recommendations, but did not enforce rules.<sup>44</sup> As the revenue generating power of intercollegiate athletics grew, there became a need for some way of addressing the ongoing ethical misconduct of institutions that came as a result of increased focus on increasing revenue. The power of college football had created a double standard on college campuses where athletes were showered with gifts and given special treatment behind the scenes, while the public image portrayed them as students first and athletes second. The NCAA moved closer to becoming the enforcer of policies. However, as Watterson claims, “only by taming football, the sport that produced gate receipts and glory, could the NCAA return to the ideal of the amateur sportsman.”<sup>45</sup> The NCAA began to investigate violations of regulations and in 1948 put together the Principles for Conduct in intercollegiate athletics. The code was meant to be a way of helping place athletics in its proper place at colleges and universities. The following are the Principles for the Conduct of Intercollegiate Athletics as stated in the Article III of the NCAA constitution of 1948:

- Adherence to the definition of amateurism
- The control and responsibility for the conduct of both intercollegiate and intramural athletics shall, in the last analysis, be exercised by the institution itself
- Holding student-athletes to the same sound academic standards as the student body
- Awarding financial aid without consideration for athletic ability
- A policy of recruiting that basically prohibited a coach or anyone representing a member school from recruiting a prospective student-athlete with the offer of financial aid or equivalent inducement<sup>46</sup>

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<sup>44</sup> Smith, R. A. Play-by-Play: Radio, Television, and Big-Time College Sport: Johns Hopkins University Press, 2001. p. 67.

<sup>45</sup> Watterson, College Football, p. 200.

<sup>46</sup> Gary T. Brown, “NCAA Answers Call to Reform,” The NCAA News, 22 November 1999, available from <http://www.ncaa.org/news/1999/19991122/active/3624n24.html>; Internet.

The code also included a committee that looked at maintaining compliance and bringing institutions up on charges for violating the code and regulations of the NCAA. One drawback was that the NCAA did not have a very good way of enforcing the rules. Its only real sanction was expulsion from the association and that required a two-thirds majority vote of the members. Within two years of its adoption, the Sanity Code was considered inoperable and the NCAA returned to the doctrine of Home Rule. However, televising of college football convinced the NCAA to once again abandon the doctrine of Home Rule.

In 1947, a TV station in Chicago began to regularly televise Notre Dame football games. The University of Pennsylvania (Penn) had started televising its games in 1940. By 1950, major television networks were paying Notre Dame and Penn more than \$75,000 annually for the rights to televise their football games. Notre Dame and Penn continued to pursue more revenue through television contracts. This sentiment was in sharp contrast to the NCAA's view that the telecasting of games should be limited.<sup>47</sup> The NCAA felt that televising games hurt ticket revenue at live games. However, since the NCAA practiced the doctrine of Home Rule, it did not regulate television contracts and the individual institutions' interest in negotiating for commercial television revenue. In 1950, Father Theodore Hesburgh addressed the NCAA convention and explained that television was not hurting ticket revenue at Notre Dame and that they were hiring a consultant to look at ways to promote Notre Dame through televising football games. In the same year, Notre Dame negotiated a network television contract worth \$185,000. Notre Dame's ability to gain that much revenue from television caught the attention of the NCAA. In turn, the NCAA formed a television committee and by 1951 had taken

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<sup>47</sup> Ronald Smith, Play-By-Play, p. 55-57.

away Notre Dame's financial advantage from television by starting an experimental television package that was negotiated by the NCAA.<sup>48</sup> Though the NCAA stated that the decision to get involved in televising games was not about money for the NCAA, Ronald Smith makes a different observation: "Yet, even though money was not an uppermost consideration, evidently no thought was given to telecasting on the educational TV what was beginning to be introduced across the nation."<sup>49</sup> The NCAA's decision to pursue revenue generating television contracts instead of utilizing non-profit educational television is evidence that money and commercialism did matter in its decision making. The NCAA's role in the televising of football games became the catalyst for its new role as an enforcement agency. To address the enforcement of rules the NCAA officially adopted a 12-point code and a method of enforcing the rules in 1952. The Committee on Infractions was formed and established in 1954 and a full-time position was created to help administer the process. The NCAA now had a way to address some of the problems that were going on with the increased commercialization of intercollegiate athletics.

The structure and influence of the NCAA continued to grow over the next couple of decades. Increased opportunities for revenue from television contracts made successful football programs a high priority for many institutions. With the growing influence of television, the shift of power in the NCAA began to lean towards athletic directors and presidents while faculty members saw their role diminish within the power structure of the NCAA, even though, faculty members served in key positions within the NCAA. In fact, except for 1959-60 and 1965-66, all the presidents of the NCAA were

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<sup>48</sup> Ibid., p. 65.

<sup>49</sup> Ibid., p. 73.

faculty members. The involvement of faculty members was intended to keep a strong connection between academics and athletics. However, it appears that despite their prominent positions in the NCAA, faculty members have historically had limited influence on sports except when they participated in them.

As demonstrated earlier, faculty members at Harvard and other institutions tried to suspend or abolish football in the early 1900s. At times, they had success, but in all cases, the pressure from students, alumni, and boosters always led to the reinstatement of football. Throughout the history of college football, its governing boards included faculty members and in some cases started out run by the faculty. However, in most cases, the make up of these boards was changed to include alumni and administrators. Watterson states, “In the 1880s and early 1890s it was common for schools to have faculty athletic committees, but gradually many of those committees were enlarged or restructured to included alumni and students.”<sup>50</sup>

Attempts to give the faculty more control over the governance of athletics happened throughout the history of college football. Almost 100 years before the Jan Kemp trial, faculty members from seven institutions that were part of the Ivy League held a conference called the Brown Conference to address reform and to reinstate faculty control over athletics. They drafted a reform proposal for the Board of Directors at their institutions. The proposal included the creation of committees dominated by faculty members. These committees would oversee the operations and policies regarding athletics. After several drafts, the members of the Brown Conference submitted their proposals to the Board of Directors of the institutions they represented. None of the institutions approved the changes. Watterson argued that even if the changes were made,

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<sup>50</sup> Watterson, College Football, p. 51.



they would have been difficult to enforce. Additionally, the lack of participation by Walter Camp and was a primary reason for the proposal failing. According to Watterson, the Board of Directors of the institutions did not trust faculty control over athletics.<sup>51</sup>

What little role in athletics that the faculty attained in the early 1900s diminished completely by the 1980s. After William Flynn, an athletic director, was elected president of the NCAA in 1978, only one more faculty member became president of the association (1989-90).<sup>52</sup>

The 1980s became a time of increased involvement by institutional presidents in the NCAA. Alan Chapman, a faculty member at Rice University and former president of the NCAA, stated,

“Up until that time, presidents more or less had the attitude of keep things running smoothly and don’t bother me, but then it became more and more apparent that CEOs had to be more involved because in the end it was they who were on the firing line, particularly when infractions started attracting so much prominence from media.”<sup>53</sup>

As money increasingly played a part in the evaluation of success and failure in college sports, the number of NCAA regulations violations also increased.

According to Watterson, the events at Southern Methodist University (SMU) in the 1980s created the biggest scandal among many during that decade.<sup>54</sup>

The founders of SMU used football as a way to keep supporters happy and attract attention to the school. The school was founded in 1911 and by 1922 it was temporarily suspended by the Southwest Conference and nearly expelled for illegally subsidizing their education. According to Watterson, the conference held a vote to determine if SMU

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<sup>51</sup> Watterson, College Football, p. 52-53.

<sup>52</sup> Hawes, K. "History of the Ncaa: The Ncaa Century Series." The NCAA News (1999).

<sup>53</sup> Alan Chapman as quoted in Brown, "Passing the Grade," The NCAA News, p. 2.

<sup>54</sup> Watterson, College Football, p. 353.

should be expelled and the university was saved by one vote cast by its own representative. Among the violations were secret loans, student activity scholarships, free books, and being paid for jobs that did not require work.<sup>55</sup> SMU won the conference title the next year. In the 1940s, SMU football was extremely successful and the university gained notoriety for its football teams and for its star players. From 1951 to 1976, SMU did not fare as well athletically; by the 1960s the Dallas Cowboys, a professional football team, became competition for SMU in terms of revenue generation. In 1973, after a change in presidents, the university reported itself to the Southwest Conference concerning violations in which players were paid to play. SMU received a one-year probation. The NCAA did an additional investigation and blacked out televising of SMU games and did not allow the University to participate in postseason bowl games. Following its probation, SMU continued to pay players and entice top recruits to join SMU in exchange for cars and money. The NCAA investigated again in the 1980s and following the investigation, SMU was charged with 80 allegations. SMU had a history of major infractions in 1958, 1964, 1974, 1975, and 1981. Despite the repeated penalties and probations at SMU, the University continued to violate rules and put athletics ahead of academics

SMU received the NCAA death penalty in 1987 as a result of its improprieties. The NCAA death penalty for SMU meant that the institution could no longer field a football team. Watterson stated that “as long as an athletic culture held sway at an institution, the president acting alone would find it almost impossible to uproot.”<sup>56</sup> Watterson claimed that the eventual demise of SMU’s football program led to the

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<sup>55</sup> Watterson, J. College Football, p. 356.

<sup>56</sup> Watterson, College Football, 358.

creation of the Knight Commission,<sup>57</sup> arguing that incidents like those at SMU led to reform efforts in college football. However, “colleges and college presidents had not come to grips with the gridiron creed of bigger is better, a mind-set that had almost from the beginning of college football led to flagrant abuses and periodic upheavals.”<sup>58</sup> The increased involvement of administrators in the decision making kept the faculty members from being involved in the governance of athletics at universities.

Faculty representatives were relegated to dealing with student-athlete welfare issues and not with major decision making on issues that were not necessarily academic in nature. Vocal faculty members argued for the involvement of the faculty in athletic decision making. Percy Bates, the faculty representative at the University of Michigan in 1999, discussed the importance of faculty members in athletics when he was interviewed about subject for an article for The NCAA News. Bates said,

“It’s nice to have a perspective from someone there whose job doesn’t depend on the athletic success of the team. That’s one of the things the faculty reps were insulated by- their jobs depended on their academic endeavors and they could provide the viewpoint that the professionals couldn’t, as well as CEOs, who were more concerned with public image and so forth.”<sup>59</sup>

Despite the arguments for more significant inclusion of the faculty in the governance of athletics, the power shifted to administrators, presidents, and benefactors. The changes in the political structure of the NCAA coincided with a decade of scandals and issues brought on by the commercialization of college athletics. As money became the dominant issue in the NCAA, the leadership reflected people more closely tied to the revenue streams. Toward the end of the 1980s, reform and control of intercollegiate

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<sup>57</sup> The Knight Commission was created in 1989 by the Knight Foundation to study college athletics and devise new approaches. The focus of the Knight Commission was presidential control over athletics.

<sup>58</sup> Watterson, College Football, 378.

<sup>59</sup> Percy Bates as quoted in Brown, “Passing the Grade,” The NCAA News, 3.

athletics became a theme among leaders in higher education. James Duderstadt, former president of the University of Michigan, stated,

it is time for universities to reassert control over intercollegiate athletics and to realign them with the academic priorities of higher education. Key in this effort will be the difficult but essential task of resisting the pressure-whether from the media or politicians, trustees or alumni, fans or the public at large, or even some of our coaches, athletic directors, and university presidents- to transform college sports into an entertainment industry.<sup>60</sup>

As a result of the scandals in the 1980s, the trustees of the John S. and James L. Knight Foundation created a commission on intercollegiate athletics in 1989. The trustees were concerned that the abuses in college athletics posed a threat to the integrity of higher education. (The Jan Kemp trial was one of the scandals referred to by the Knight Foundation) The commission's interest was to place the role of intercollegiate athletics in its proper perspective. Its definition of the proper perspective was as a spectator sport that fans could enjoy but also did not engage in behaviors that threatened the academic integrity of higher education. The Knight Commission's focus was on big-time athletics programs. The commission defined big-time athletics programs as those "institutions fighting for the big bucks that television exposure and bowl games and NCAA tournaments brought."<sup>61</sup> Data provided by surveys conducted for the Knight Foundation by various research groups provided evidence to justify the need for major reform in intercollegiate athletics. Some highlights of the data are as follows:

- In the 1980s, 109 colleges and universities were censured, sanctioned, or put on probation by the NCAA;
- 57 institutions were at the NCAA's top competitive level;

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<sup>60</sup> Duderstadt, James J. Intercollegiate Athletics and the American University : A University President's Perspective. Ann Arbor: University of Michigan Press, 2000. xii.

<sup>61</sup> Creed C. Black, "Introduction," in Keeping Faith with the Student-Athlete: A Solid Start and New Beginning for a New Century, by the Knight Commission on Intercollegiate Athletics (Miami, FL: John S. & James L. Knight Foundation, 1993), 3.

- Nearly a third of present and former professional football players responding to a survey said they accepted illicit payments while in college and more than half said they saw nothing wrong with the practice;
- Another survey showed that among the 100 big-time schools, 35 had graduation rates under 20 percent for their basketball players and 14 had the same low rate for their football players.<sup>62</sup>

The Knight Commission referenced the work of the Carnegie Report of 1929 and acknowledged that the situation had become worse over the 60 years between the two reform efforts because of the millions of dollars television poured into college athletics. The commission viewed its challenge as winning support for realistic reform efforts that would bring all institutions together.

The commission proposed a model or guideline for reform, the one-plus-three model. In this model, the one is presidential control. The idea is that the president should have ultimate authority over athletics and should direct control toward academic integrity, financial integrity, and independent certification. Like the Carnegie Report of 1929, the Knight Commission viewed the key player in reform as the institutional president. Also, like the Carnegie Report of 1929, the commission did not seek to address individual problems on specific campuses. The commission made no claims that its recommendations would solve all the problems in intercollegiate athletics. The co-chair for the Knight Commission was President Emeritus of the University of Notre Dame, Theodore Hesburgh. In creating the commission, the foundation acknowledged that the millions of dollars from television contracts was a key factor in creating problems in intercollegiate athletics. In contrast, Hesburgh was the driving force behind Notre Dame negotiating individually for its own television contract and calling any efforts to share revenue during television negotiations in the 1950s as socialistic. In response to

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<sup>62</sup> Ibid., p. 4.

Hesburgh's views in the 1950s, Ronald A. Smith wrote, "Hesburgh was Robin Hood's antithesis, for he was trying, unsuccessfully, to create a Super Conference to put control of television money solely in the hands of the big-time power schools."<sup>63</sup> The irony of the Knight Commission was that Hesburgh was a proponent of big-time athletic prowess and was now leading a commission that was seeking to attack the power and control he had achieved during his time as president.

Critics of the Knight Commission believed that the initial intent of the commission was good, but in the end it succumbed to the revenue-generating power of college athletics and the NCAA. For example, The Drake Group served as a major critic of the Knight Commission. The Drake Group was formed in 1999 to look at radical reforms to intercollegiate athletics. The group published essays and statements that pushed their reform agenda. Unlike the Knight Commission's focus on television revenue, The Drake Group believed that the only way to reform athletics was through disclosing of academic records so institutions could not hide academic deficiencies among athletes.<sup>64</sup> Like the Carnegie Report of 1929, following the Knight Commission's reports, institutions made some changes and took a closer look at policies. Graduation rates increased somewhat, but not to a level to state that major reform had taken place. In 2007, USA Today reshuffled the ranking of the top 25 teams in college football by graduation rates. The Division I-A average at the time was 66% for college football players with schools such as Boston College and Michigan rated in the top ten. The University of Georgia was ranked 25<sup>th</sup> with a graduation rate of 41%.<sup>65</sup> The effectiveness of the Knight Commission's reform efforts is debatable. Like its predecessors in reform,

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<sup>63</sup> Ronald A. Smith, *Play by Play*, 145.

<sup>64</sup> The Drake Group, [www.drakegroup.org](http://www.drakegroup.org).

<sup>65</sup> [http://www.usatoday.com/sports/college/2007-10-04-graduation-polls\\_n.htm?loc=interstitialskip](http://www.usatoday.com/sports/college/2007-10-04-graduation-polls_n.htm?loc=interstitialskip).

it focused on the presidential control and not on commercialization as a reform component.

The Knight Commission is now working in collaboration with the NCAA and never became involved in the issues around revenue generation. It is the power of the market and many of the external influences James Duderstadt referred to in his book, Intercollegiate Athletics and the American University: A University President's Perspective that effected change in the relationship between academic priorities and athletic priorities. J. Douglas Toma, however, viewed the relationship between athletics and the college differently. According to Toma, college football is ingrained in the culture of a university. He refers to institutions with major revenue-producing football programs as Football U.<sup>66</sup> Toma argued that “spectator sports are central in institutional life, providing the campus with a distinctive identity and popular appeal.”<sup>67</sup> According to Toma, universities with big-time football choose between separating out athletics or taking advantage of their program. In other words, athletics is used as a source of community and as a centerpiece for the campus culture or it is isolated and deemphasized. He argued that universities overwhelmingly choose to embrace and use athletics to promote the university. According to Toma, embracing athletics has become mandatory because to ignore athletics puts the university at risk of lacking control over athletics. Lack of control can lead to violations and sanctions in relation to NCAA policies. According to Toma, “the trade-off for institutions for sports-enhanced external support, political and otherwise, is often diminished institutional control over intercollegiate

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<sup>66</sup> J. Douglas Toma, Football U., (The University of Michigan Press: Ann Arbor, 2003).

<sup>67</sup> Ibid., p. 1.

athletics.”<sup>68</sup> Rick Telander argued that universities created the spectacle of college football and the corrupt activities are a part of maintaining a big-time college football program. Telander used the University of Nebraska as an example of this financial spectacle by stating, “it has produced a football team, as other universities have, that carries so much emotional freight for so many people that it has become an awesome economic force.”<sup>69</sup>

The University of Georgia (UGA) is a model for the type of football program described by Telander, Toma, and Duderstadt. Nearly 115 years ago, the University of Georgia (UGA) played its first college football game against Mercer College on Herty Field. Herty Field is located on north campus in the original academic quadrangle of the University of Georgia campus. The university then organized a game with Auburn University in Atlanta, Georgia. The game between Georgia and Auburn became known as the “South’s oldest collegiate rivalry.”<sup>70</sup> College football at the University of Georgia has grown in popularity, size, tradition, and influence. How important is college football to the University of Georgia? Former head football coach and athletic director at the University of Georgia, Vince Dooley wrote, “Athletics is one of the things we do in the name of the University of Georgia. It’s the way we fly our colors. It’s one of the primary reasons UGA people say, I bleed Red and Black!”<sup>71</sup>

Football began to be used as a mechanism for increasing the university’s national exposure in the 1920s. By playing games against national powerhouse programs like Harvard, Yale, and Chicago, UGA attempted to bring attention to the institution for non-

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<sup>68</sup> Ibid., p.261.

<sup>69</sup> Telander, R. The Hundred Yard Lie: The Corruption of College Football and What We Can Do to Stop It. (University of Illinois Press, 1996). 124.

<sup>70</sup> Ernsberger, Bragging Rights. P. 3.

<sup>71</sup> Dooley, V with Barnhartt, T. My 40 years at UGA. (Chicago, IL, Triumph Books, 2005).



football reasons. In 1929, the same year as the Carnegie Report, the University of Georgia established an independent Georgia Athletic Association. According to Thomas Dyer, the University of Georgia athletic association “in many ways took authority over intercollegiate athletics out from under the umbrella of the university administration and the renewal of the charter for the association in 1949 confirmed that extra-institutional forces would for another twenty years shape the development of intercollegiate athletics.”<sup>72</sup>

When the first football game at the university was played there were maybe 100 spectators in attendance. Today, football is played in Sanford Stadium which hosts a capacity crowd of over 92,000 people. The evolution of football at the University of Georgia included a focus on popular exposure and revenue generation. Boosters and alumni have driven revenues to new levels as highlighted in Richard Ernsberger’s book, Bragging Rights: A Season Inside the SEC. He notes that revenues from college football have become so important that practically every school in the Southeastern Conference has recently expanded its stadium and added scores of luxury boxes for wealthy boosters.<sup>73</sup> John Thelin’s analysis of the University of Georgia as a booster campus presents the dilemma past presidents faced when the needs of the college football program came into conflict with the academic mission and financial stability of the institution.<sup>74</sup> In his analysis, Thelin also relies on Thomas Dyer’s research on the University of Georgia as evidence of the evolution of these dilemmas.

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<sup>72</sup> Thomas G. Dyer, The University of Georgia : A Bicentennial History, 1785-1985 (Athens: University of Georgia Press, 1985).

<sup>73</sup> Ernsberger, J., Bragging Rights, p. 10.

<sup>74</sup> Thelin, Games Colleges Play, 77. In 1923, The University of Georgia started playing games against Yale which was one of many high profile football games that UGA played for the purpose of public relations.

According to Dyer, the growth and prominence of college football at UGA stemmed from the overall changes the University experienced at the turn of the 20<sup>th</sup> century. In 1898, Walter Barnard Hill was named Chancellor of the University of Georgia and he brought with him an agenda which included transforming the University into a more utilitarian institution that served society. In a speech in 1905, Hill stated that the University “will connect its activities more closely with the business and life of the people.”<sup>75</sup> Following Hill’s tenure, President David C. Barrow continued the modernization effort at the University. According to Dyer, intercollegiate athletic competition became “an additional source of stress inevitably accompanying expansion and modernization.”<sup>76</sup> Football served as a public relations tool and once it survived the on the field reform to curb the violence in the early 1900s, its popularity grew and began to contribute to the University’s public persona. Dyer continues,

With the popularization of football, however, and the accompanying improvement in modes of communication, the exploits of athletes became available to thousands who totally lacked connections with any college, but followed collegiate teams with a fervor which matched that of the alumni.<sup>77</sup>

John Thelin included UGA in his analysis of the populist booster campus circa 1929-1946. The populist booster campuses saw institutional growth as an extension of the aspirations of the state government. According to Thelin, this was decidedly so in the Western and Southern regions of the United States. In his analysis of four universities, one of them being UGA, he stated that “these cases created the models of funding, coaching, and recruiting that characterized big-time college sports after 1930.”<sup>78</sup> Thelin’s

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<sup>75</sup> Walter B. Hill, unpublished speech, “The Twentieth Century University,” in Walter B. Hill Family Papers, Box 34, Folder 5, no date, University of Georgia Library.

<sup>76</sup> Thomas G. Dyer, *The University of Georgia : A Bicentennial History, 1785-1985*, p. 164.

<sup>77</sup> *Ibid.*, p. 166.

<sup>78</sup> Thelin, *Games Colleges Play*, 72.

analysis offered one important perspective of the role of college football at the University of Georgia.

The newly established prominence of intercollegiate athletics presented a number of conflicts between the academic integrity of the institution and the desire for athletic prowess. Dyer cites one example where the University of Georgia Athletic Association realized that prospective athletes who were unable to attain regular admission into the University in the College of Arts and Sciences could gain admission into the Law School because it had little or no admissions requirements.<sup>79</sup> In his research, Dyer cites similar conflicts and in each case the president or administrators involved deferred to the desires of the athletic association because they needed the support of key alumni and the exposure of athletics to help increase academic offerings.

The creation of the University of Georgia Athletic Association is an important event in the evolution of athletics at the university. Additionally, it is important to this study because it established the significance of college football at the university. Since the Athletic Association was a private entity, it was free to make decisions concerning athletics outside the university's umbrella of control. The Athletic Association board primarily consisted of influential alumni and though some faculty members were on the board, the private status of the association diminished their involvement. The athletic association also served as an external form of pressure on the athletic department that was in conflict with the academic mission of the university. For example, during World War II, the dilemma arose for then President Harmon Caldwell to decide whether or not football should be played during wartime. The institution, with the support of the board, continued to play football even to the tune of a significant financial deficit. The deficit

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<sup>79</sup> Dyer, The University of Georgia, p. 165.

forced Caldwell to contact prominent alumni to give money to make up for the deficit. In addition, to subsidize the funding of the football program during wartime, Caldwell agreed to turn over student activity fees to the athletic association board to make up for lost revenue and increased expenses.<sup>80</sup>

The arrival of President Omer Aderhold in 1951 signaled a commitment to becoming a modern university with a focus on research.<sup>81</sup> According to Dyer, these competing forces played a significant role in creating the university culture and environment for the decades that followed his presidency. With the transition into Fred Davison's presidency in 1967, the focus on research and prestige continued to create the institutional context surrounding the Jan Kemp trial.

During the timeframe leading up to the Jan Kemp trial, faculty members were involved in disputes with President Davison. In the 1970s, faculty became the protesters because during the time period of 1971-1973, Davison created what Jan Kemp's lawyer, Hue Henry, described as a climate of fear.<sup>82</sup> Davison was meeting opposition from all the ranks, but he also used tremendous pressure to snuff out any opposition. Alan Siegel, a UGA student, described UGA under Davison as an oppressive climate in his valedictorian speech. Siegel's speech became an attack on Davison and his administration. Siegel addressed Davison during his speech, stating that the President was "exerting pressure in an effort to muzzle diverse opinions."<sup>83</sup>

During Davison's tenure 14 deans and department heads resigned from their position. The rebellions and resignations were the result of a long struggle between the

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<sup>80</sup> Dyer, *The University of Georgia*, p. 247-249.

<sup>81</sup> Dyer, *The University of Georgia*, p. 284.

<sup>82</sup> Hue Henry, interview by author, tape recording, Athens, GA, 1 November 2006.

<sup>83</sup> Media Materials on Jan Kemp Affair and Fred Davison Resignation 1985-1986. University Archives: The University of Georgia Libraries. 97-118:5-9.

faculty and the administration over Davison's new promotion and tenure standards. In 1971, in his State of the University Address, Davison stated that in order to manage the budget better and to be more pragmatic, he was instituting new promotion and tenure standards. Davison drew fire from the faculty because the new standards deemphasized teaching and emphasized research. The faculty detested Davison's impersonal approach and unwillingness to involve faculty in changes. The tension continued and became such a powder keg that then Governor Jimmy Carter had to step in and urge the administration and the faculty to work out their differences.<sup>84</sup> Davison continued to tout the university's increased research dollars and enrollment as the shining points of the university and his administration. To Davison's credit, the university experienced exponential growth during his tenure of nearly two decades. However, his push for growth in scientific research and desire for prestige came at the expense of his relationship with the faculty. On the inside, faculty morale was at a low point. A statement in the Athens Observer indicative of the time came from an English professor, Marion Montgomery. He stated in response to Davison's boasts of enrollment and expansion,

by such an argument for quality, we may consider that our problems with inflation and depression are rapidly solved by our welfare statistics. More money is spent each year on welfare, and more names are added to the welfare roll, so therefore we are rapidly expanding and progressing, to use two of President Davison's favorite words. . . better teachers and better students proved by the fact of better grades. Nonsense.<sup>85</sup>

In 1977, Virginia Trotter was named as Vice President for Academic Affairs. In Davison fashion, she immediately told department heads and faculty to not talk poorly of Davison or the institution in public. Trotter was part of what Athens lawyer Hue Henry

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<sup>84</sup> D. Roberts, The Jan Kemp Controversy: An Index to Media Coverage. UniversityArchives: The University of Georgia Libraries.

<sup>85</sup> Athens Observer

dubbed the puppet cabinet.<sup>86</sup> Based on his experiences suing the university, Henry claimed that it was evident that many of the administrators at the university were not hired to be free thinkers but to serve as messengers for President Davison. Jerrold Footlick outlined these issues in his book Truth and Consequences: How Colleges and Universities Meet Public Crises. In one chapter of Footlick's book, he analyzed the public relations issues that arose as a result of the Jan Kemp trial and how the university managed them. His perception of the Davison administration was that "Davison and a small coterie of advisors ran the university with little external input or opposition."<sup>87</sup> The fallout from the Jan Kemp trial ultimately exposed problems that occurred during Davison's presidency.

#### Summary of the Literature

For as long as football has been a part of collegiate culture, controversy and scandals have played a part in its history. Regardless of their position, university administrators have struggled when faced with the seemingly competing interests of college football and academic integrity.

Football began as an extracurricular activity primarily played by students. With the influence of Walter Camp and administrators' realization that football could generate tremendous revenue, the sport quickly became a protected and defended component of many colleges. Camp introduced new rules on the field and established ways to organize and market the sport off the field. Presidents and campus leaders used football to gain exposure for their institution. Due to the large expense of running a football program, faculty members and presidents allowed alumni and boosters to become involved in

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<sup>86</sup> Hue Henry, interview by author, tape recording, Athens, GA, 1 November 2006.

<sup>87</sup> Jerrold Footlick, Truth and consequences: How colleges and universities meet public crises, (Phoenix, AZ: American Council on Education/The Oryx Press, 1997), p. 57.

supporting the programs financially. However, with the financial support came expectations such as tickets for games and involvement in decisions.

Using the momentum of popular support, football thrived at colleges. Even the violent nature of the sport and the many deaths it caused did not stop the sport from continuing to grow. When faced with possible abolition by the President of the United States, Theodore Roosevelt, college football made adjustments, but kept moving forward. A significant result of this event was the formation of the IAAUS which eventually became the NCAA. Football was now legitimately aligned with colleges and had the official backing of a national organization to assist in the development of the sport.

The powerful influence of football over the masses meant that colleges placed it at a high level of importance in culture and operation of the institution. In many cases, this meant that the need to succeed in football superseded the academic mission of the college and the integrity of its academic programs.

Henry Pritchett became concerned with the impact football had on higher education. He used his influence to convince the Carnegie Foundation to conduct a study of intercollegiate athletics was needed. In 1929, the Carnegie Foundation supported and published a study entitled American College Athletics. The study was led and written by Howard Savage. The study uncovered 4 major concerns within college athletics; lack of presidential control, commercialization, limited role of the faculty, and corruption through preferential treatment of athletes. How important was the Carnegie Report of 1929? John Thelin argues that “any substantive discussion about the reform of intercollegiate athletics in American higher education starts and eventually returns to

American College Athletics.<sup>88</sup> The Carnegie Report established the core problems seen when athletics and academic integrity come into conflict. This report served as the foundation for future reform efforts. While the Carnegie Report established some of the major issues, Robert Hutchins used his power as president to change the fate of football as one of the country's most prestigious academic and athletic institutions.

By increasing the expected academic rigor a student faced at the University of Chicago, Hutchins successfully created an environment where students chose academics over football. In order for them to succeed at the institution academically, they couldn't focus the needed energy on participating in football at the level expected by coaches. Once the football team started losing games, it became easy for Hutchins to convince trustees to abolish football. While this was a truly uncommon means of reforming college athletics, it serves as an important example of how a university president can have power and influence over the role of athletics at an institution.

Following the Carnegie Report and the abolishment of football at the University of Chicago, the NCAA created rules to govern the role of athletics within the academic mission. They created a code in 1948 to define the conduct of institutions, administrators, and athletes. However, once the NCAA challenged its own core values of athletics, it realized it had no real power to enforce rules or influence institutions to follow the rules. It was not until football games became televised that the NCAA garnered an opportunity to become an enforcement agency.

College football and the NCAA grew as the popularity of television grew. The NCAA controlled television contracts. The amount of revenue involved in these contracts was enormous for the time. Even when given the opportunity to use free public

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<sup>88</sup> Thelin, Games Colleges Play, p.13.



television to telecast games, the NCAA and universities never gave it consideration. The potential revenue generating opportunities were too much to pass on. Money played a significant role in the decision making of administrators concerning college athletics. With the NCAA and universities involved in television contracts and tremendous revenue streams, the role of the faculty in the governance of the NCAA and on athletic boards diminished. A closer look at the history of college football shows that even though the faculty was in a seemingly important position to effect change in the athletic realm, the reality on their own campuses was that the people closest to the revenue streams for athletics were still in control of athletics.

The focus on revenue and athletic prowess led to a decade of major scandals involving universities like SMU and the University of Georgia. SMU started its football program in order bring attention to the university. It used the program and pumped a lot of money ethically and unethically into athletics. Eventually, SMU became the first institution to receive the NCAA's death penalty for sports programs and they have only recently begun to play football again. The theme of commercialization and revenue generation is found throughout the history of college football. The SMU case is important because it happened along a similar timeline to the Jan Kemp trial. Also, the decision of administrators at SMU is comparable to the issues that evolved during the Jan Kemp trial.

As a result of scandals in the 1980s, the Knight Foundation formed a commission 1989 to address reform needs in college athletics. The commission tried to place athletics in the proper perspective at colleges and universities. The commission established a one-plus-three model. The commission's idea was that presidential control of athletics was

key to successfully placing it within the academic context of an institution. The commission's work is the most recent major reform effort in the United States. What is significant about the Knight Commission's work is that the issues identified by the commission are in essence the same issues identified by Howard Savage in 1929.

It appears that since Theodore Roosevelt nearly abolished football in 1905, a major reform effort has taken place approximately every 20 years. The Carnegie Report started the college football reform canon in 1929. In 1948, the NCAA attempted to establish a code of conduct for colleges concerning the role of athletics, but failed because it lacked the ability to enforce rules. In 1974, George Hanford's report for the American Council on Education argued for more involvement from the faculty in governance of athletics and pointed out that many institutions were losing money from athletics. Last, the Knight Commission published its reform model in 1989. Does this mean a new major reform effort is about to form in 2009? The trend seems to point to this possibility.

The decisions made concerning college football throughout history point to commercialization of the sport as a major influence. Additionally, the desire to increase the exposure of the school through the success of sports teams led administrators to justify turning a blind eye to academic integrity issues for the sake of increasing athletic prowess was justified. In studying the history of the University of Georgia, the decision to play football during wartime and the establishment of the Athletic Association as a private entity were both influenced by the external pressures from boosters and internal pressures to increase revenue and enrollment. A study of the Jan Kemp case adds to the history of college football and attempts to reform. It also establishes the decisions of

administrators that led to the most recent reform efforts in college athletics. Additionally, studying this case within the context of the history of college football may lend insight into what issues to look for when the next major reform effort in college football comes around because if history is a guide, then the next major challenge to college football is coming.

## CHAPTER 3

### METHODOLOGY

The method of this study involves using an historical method that includes document analysis and interviews. These procedures were used to gain knowledge of the evolution of the problems that led to the Jan Kemp trial. The analysis of court documents, multimedia publications, and additional primary sources from before, during, and after the trial helped to describe the context of the situation during a ten year span that included the trial and primarily Jan Kemp's term of employment at the university. The data was used to interpret how the decisions of administrators were affected by the context. Additionally, interviews were conducted to offer personal insight from people close to the situation. These interviews provided details that give extended depth to the textual analysis of the trial. To collect the data necessary to study this case, the following procedures were utilized:

1. A purposeful sample of people with unique knowledge to the Jan Kemp trial were chosen for interviews;
2. An interview protocol and a list of questions were developed;
3. Interviews were scheduled and conducted;
4. An extensive amount of legal and personal documents belonging to J. Hue Henry were collected and analyzed;
5. Primary sources from the University of Georgia archives were analyzed;
6. Secondary sources were analyzed in relation to their relevance to the trial.

#### Deciding on a Purposeful Sample of Documents and People

To understand the events in and surrounding the Jan Kemp trial, it was necessary to use a purposeful sample of documents and people because of their unique connection

to the situation. Merriam explains that “purposeful sampling is based on the assumption that the investigator wants to discover, understand, and gain insight and therefore must select a sample from which the most can be learned.” The first step in purposive sampling is creating criteria to define the importance of the samples being chosen.<sup>89</sup>

For this study, a document or person had to provide unique information related to events in or surrounding the Jan Kemp trial. In addition, information that specifically addressed how the people involved made decisions related to the intersection of academics and athletics were deemed valuable to the study. A meeting with Jan Kemp’s attorney, J. Hue Henry, started the process of identifying documents and people with unique access to and knowledge of the case. Following the meeting, Henry donated his files and personal documents from the trial for use in this study. These documents included court transcripts, depositions, evidence used during the trial, newspaper and magazine clippings, audiotapes, and personal notes taken by the lawyers. In total the files donated by Henry filled three 30-gallon plastic containers and three additional banker’s boxes. These documents were the foundation of the study. A majority of the information used to analyze the case came from these documents. After further analysis of these documents, information emerged that led to seeking out additional samples of data and evidence. The data from these documents also contributed to the creation of interview questions used in this study and deciding on participants to interview.

After reviewing the files, I determined a number of people I wanted to interview in order to gain additional insight into the trial. First, I saw my own perspective as a fan and supporter of college football. I sought out the perspectives of Jan Kemp and Hue

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<sup>89</sup> S. B. Merriam, Qualitative Research and Case Study Applications in Education (San Francisco: Jossey-Bass Publishers, 1998).

Henry to understand why they chose to challenge the system of college football at the University of Georgia. Fred Davison and Virginia Trotter were both deceased at the time of this study so I relied on textual evidence to gain their perspective on the trial and the relationship between college football and the University of Georgia. I then attempted to make contact with Leroy Ervin, but was unsuccessful in finding him. He did conduct a lecture at Georgia Perimeter College in 2006 and I used that lecture as some of the basis to gain his perspective on the relationship between college football and the University of Georgia. I also relied on his testimony in court transcripts and the transcripts of interviews done with him following the trial. There was another administrator who worked in Developmental Studies at that time of the trial. I asked the person for an interview and they declined. They spoke with me off the record about some issues and I used that information to help me find additional resources and perspectives. The person said the incident was a difficult time and did not wish to re-live it.

#### Interview Protocol and Questions

Interview questions were created and interviewees were identified for the interview portion of the study, based on their unique perspective on the Jan Kemp trial and the relationship between academics and football. The questions were intended to gain the perspective of the interviewee in relation to the following criteria:

1. The participant's views on intercollegiate athletics and college football;
2. The participant's perceptions of college football at the University of Georgia;
3. The participant's perceptions of the campus environment and the Jan Kemp affair;
4. The participant's view of individuals at the University of Georgia who were involved in the trial.

The questions were reviewed by the dissertation advisor and the Georgia State Institutional Review Board. After changes were made, the questions were ready to be used in an interview setting.

Following the creation of the interview questions, the researcher developed an interview protocol and began to contact interviewees. The pre-interview protocol consisted of contacting the interviewees via the phone or email. Second, the researcher explained the study and the purpose of the interview and what role the interviewee played in the study. Third, confirmation of the participation from the interviewee was requested. If the interviewee agreed to participate, a time, date, and location of the interview was established. Finally, the researcher explained the confidentiality of the interview and that the interviewee could choose not to participate or stop participation at any point in time. All interviews were conducted in locations convenient to the interviewee. For example, Jan Kemp was interviewed in her house and Hue Henry was interviewed in a restaurant next to his law office.

The protocol for the actual interview consisted of following a set procedure as well as allowing for an open dialogue between the interviewer and the interviewee. The interviews began with an explanation of the study and the researcher's view on the interviewee's significance to the study. Then, following some discussion and background information, the researcher began asking questions. A list of questions used to guide the interviews is located in the Appendix A.

#### Analysis of Hue Henry's Legal Files

A major component of this study involved analyzing court documents, legal briefs, and documents found in the files of Hue Henry. Henry was Kemp's attorney during the

trial and donated his files for use in this study. Henry and the researcher are acquaintances and this relationship allowed the researcher an opportunity to gain access to Henry's personal files. For example, the audio tape of a meeting that was secretly recorded by a former faculty member in Developmental Studies was included in the files. The transcripts of the meeting were used as evidence in the trial because the meeting involved faculty members and key administrators in academic affairs and the athletic department. In addition, the arguments in the case covered a number of issues directly related to the intersection of academics and college football. There was a lot of text dedicated to issues surrounding Kemp's performance as a teacher, issues of tenure, and Leroy Ervin's tenure process. For the purposes of this study, I focused on evidence that related to the intersection of college football and academic integrity. The researcher analyzed documents with the intent of identifying information that gave insight into the decision making of administrators and faculty members in relation to the athletic program and Developmental Studies.

The first step in analyzing Henry's legal files was organizing the files for use in this study and determining the importance of information to the study. A document's importance to the study was gauged by its relation to the research questions discussed in Chapter 1. As a reminder, these questions were:

1. How did the themes identified by the Carnegie Report in 1929 play a role in the Jan Kemp affair and the relationship between academic integrity and athletics?
2. What internal and external factors created an environment for this scandal and how did it affect the decision making of key administrators?

The first documents analyzed were the depositions of Jan Kemp and Leroy Ervin. The initial questioning of these two key figures established arguments for both sides of the case. In their depositions, Kemp and Ervin answered questions concerning their



employment at the University of Georgia, their professional relationship, and their perspectives on the reasoning for Kemp's dismissal. Of particular importance were the policies and actions that involved athletes. From these initial depositions, the lawyers built their arguments for the trial and the same was done to build the arguments for this study. After analyzing the depositions, the researcher turned to the opening statements and the testimonies of Jan Kemp and Leroy Ervin. The combination of these documents established three specific issues involving college football players and academic integrity. The first was the role of Developmental Studies and its relationship to athletics at the University of Georgia. Second, the admission and exiting of athletes at the University of Georgia emerged as an important issue. Last, there were additional factors concerning the preferential treatment of athletes. Once these three major themes were established, the next step was to begin analyzing documents to look for evidence that answered the research questions and why particular decisions were made.

#### The University of Georgia Archives

The University of Georgia has extensive archives related to the Jan Kemp trial and other key individuals including presidential papers, newspaper articles, minutes from committee meetings, and other important evidence. The archives at the University of Georgia have dedicated a specific section to what the staff titled The Jan Kemp Affair. Within this section were boxes containing mainly newspaper clippings and artifacts from the trial. These documents provided internal and external perspectives on the trial and the relationship between the university and college football. After explaining the study to archivists at the University of Georgia, they identified additional volumes they believed valuable to this research. Of particular importance to this study, were copies of the

faculty newsletter, The Columns. The Columns was an important means of communication during the time. The Columns highlighted the increased involvement of the faculty following the Jan Kemp trial. When analyzing documents in the archives, the same research questions were used to establish the importance of documents.

### Analysis of Secondary Sources

The secondary sources analyzed in the case provided additional perspectives that gave insight to the research questions established in this study. A significant amount of research showed that historically college football has created controversy in relation to its role at colleges and universities. The efforts throughout history to reform college football are important to this study because they create a context for the decision making at the University of Georgia concerning its athletes. Again, the research questions developed for this study were used as a guideline to decide on the importance of secondary source information. For instance, John Thelin discusses the creation of the University of Georgia's Athletic Association as a private entity in his book Games Colleges Play. Thelin's perspective on this event is important to the study of the Jan Kemp case because he writes about it within a larger national and historical context.

As information emerged from the primary sources, answers to how and why administrators made their decisions concerning athletes also emerged. In analyzing secondary sources, I looked for comparable situations where administrators made decisions for the same reasons.

## CHAPTER 4

### ANALYSIS OF EVIDENCE

Five key issues that directly involved the intersection of academics and athletics evolved during the trial: the creation and purpose of the Developmental Studies program along with its placement within the university structure; promotion and tenure in the Developmental Studies program; the admission of athletes into the Developmental Studies program and the university; the exiting of athletes from the Developmental Studies program; and other preferential treatment given to athletes.

Additionally, analysis of the trial showed that race was a component that needs to be studied more closely. The trial concerned the relationship between college football and the Developmental Studies program. In most cases, the football players in Developmental Studies were African-American. The Developmental Studies was also created to help minority students with their transition to college.

#### Developmental Studies

Race was certainly a factor in the creation of the Developmental Studies program. In 1973 the Board of Regents for the state of Georgia approved an initiative that created developmental studies programs at all institutions within the University System of Georgia as part of the state's desegregation plan. In addition, this initiative was aimed at increasing the enrollment and graduation of minority students in college. Between 1960 and 1972, the state had seen a tremendous amount of growth in the number of students attending college. As more students came to college, it appeared that many of these

students were lacking skills in the areas of mathematics, reading, and English to prepare them for the academic rigor of a college education. For example, it was estimated that between 10 and 25 percent of the students entering the University System in 1971-72 were lacking the fundamental skills needed to succeed in college level courses. The Board of Regents set up the program with the following initial guidelines:

1. The Special Studies program will be implemented throughout the University System no later than the Fall Quarter of 1974.
2. Any entering freshman scoring a combined verbal and math score of 650 or below on the SAT will be given additional tests to determine skill deficiencies which might require participation in the Special Studies program.
3. Institutions may specify higher standards on the SAT and the Comparative Guidance and Placement Program of the CEEB for Special Studies participants.
4. Further testing will initially include, but not be limited to, the CGP test.
5. Courses in this program will include English, Reading, and Mathematics.
6. Students will be required only to enter the course related to their individual deficiency.<sup>90</sup>

In his testimony during the trial, Leroy Ervin discussed that in the beginning, all institutions with Special Studies programs in Georgia were given basic guidelines such as these and that each institution could go beyond the minimum standards set by the Board of Regents based on the mission of the institution and the type of students they served. When Ervin assumed the role of Director of Developmental Studies, he saw the mission of the department as “to not only meet the mandate of the Board of Regents in the spirit of what Developmental Studies was created for, but we also had to look at and develop that program in the context of the environment that we found ourselves.”<sup>91</sup>

The Developmental Studies program was an insulated office under the Vice-President of Academic Affairs. Unlike other academic units at the university, it was not based in a school or college such as the Law School or the College of Arts and Sciences.

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<sup>90</sup> The University of Georgia, Division of Special Studies, Operations and Procedures Manual.

<sup>91</sup> *Kemp v. Ervin*, 651 F. Supp. 495 (US District, 1986).

Students in Developmental Studies generally had a deficiency in reading, English, or mathematics. They spent time taking classes in Developmental Studies and within an allotted time period of four quarters would either exit from the program into a school or college at the university or be dismissed from the university.<sup>92</sup> The Developmental Studies program consisted of faculty members in the three academic areas and staff members in a counseling component. The organizational structure in Developmental Studies consisted of a director, Dr. Leroy Ervin, assistant directors, some support staff members, counselors, and instructors in the various components of the program. In each program, instructors served on year to year, 9-month contracts. In addition, an instructor from each component was hired to serve as the administrative coordinator for their component. These coordinators served on year to year, 12-month contracts.

As the Developmental Studies program grew, so did the connection between the department and intercollegiate athletics. The Developmental Studies program was intended to help minority students and students with low academic skills in reading, English, and mathematics succeed at the University of Georgia. A result of this initiative was that the program became the initial starting point for about 75 percent of the University of Georgia's 400 athletes. A majority of these athletes were also minority students. In comparison, 5 percent of Georgia Tech's athletes started in Developmental Studies (Georgia Tech is a state rival in college football with the University of Georgia). As a statewide comparison, in 1984 about 10 percent of all college students in Georgia needed additional coursework in Developmental Studies.<sup>93</sup>

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<sup>92</sup> The University of Georgia, Division of Special Studies, Operations and Procedures Manual.

<sup>93</sup> R. Savage, "Are UGA Athletes Getting An Easy Ride?," The Macon Telegraph and News, 10 September 1984, pp. 1A and 3A.

During testimony in the trial when asked about where money from the Athletic Association goes, President Davison acknowledged that every sport was supported by revenue from the football team and “it even underwrites Developmental Studies since it is a major user.”<sup>94</sup> When he became the Director of the Developmental Studies program, Leroy Ervin said that President Davison opposed the whole concept of a remedial studies program at the University of Georgia. During his testimony, Davison did not confirm this statement, but did say that the creation of Special Studies was not his decision and stated, “that is part of your segregation plan and we were mandated to have it.”<sup>95</sup> Davison continued to show his lack of support for the program. Following the trial Davison continued to boast the importance of other programs and showed his de-emphasis of Developmental Studies by stating, “I think what bothers me most is that during all of this, we have focused on an important program (Developmental Studies), but a program that is relatively small and that, indeed, does not carry the general use and greatness of the University before it.”<sup>96</sup>

Davison was not a supporter of the Developmental Studies program, but he was greatly concerned about the revenue generated from college football. Since a large number of Developmental Studies students were athletes, the athletic association put money into Developmental Studies so that the athletes in the program could stay eligible. The Developmental Studies program wrote a grant proposal in 1980 to the Athletic Association for the amount of \$38,900. The Athletic Association gave money to Developmental Studies to create a software program that could better track student

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<sup>94</sup>Kemp v. Ervin, 651 F. Supp. 495 (US District, 1986), transcripts from February 5, 1986, p. 3995.

<sup>95</sup> Ibid., p. 3979.

<sup>96</sup> F. Davison, “Davison answers Regents’ audit,” The University of Georgia Columns, Vol. 13, No. 25, April 7, 1986. p. 3.

performance.<sup>97</sup> As a stipulation of the grant, the Developmental Studies program provided the following specific services to the Athletic Association:

1. Computer data file of academic activity for all athletes enrolled in Special Studies.
2. Tutorial program involving all athletes presently and previously enrolled in Special Studies.
3. Daily and cumulative weekly computer reports reflecting activity of athletes.
4. Special academic/tutorial support for athletes enrolled in 100 and 200 level courses.
5. Structured tutorial program in McWhorter Hall for days per week (Monday through Thursday).
6. Special Regents Exam tutorials.
7. Tutorial for 100 and 200 level courses.<sup>98</sup>

By 1985, this grant increased to \$200,000 and served to fund a full-scale Developmental Studies laboratory that served athletes with the lowest levels of academic ability.<sup>99</sup> The large percentage of athletes who were involved in the Developmental Studies program provided a reason for the Athletic Association to fund the program.

#### Promotion and Tenure

Jan Kemp was an assistant professor at the University of Georgia in the Developmental Studies program. As an assistant professor, Kemp was on a 9-month contract. When she was hired as an assistant professor in 1978 she was also hired as coordinator of the English component in Developmental Studies, so the position of coordinator changed her contract to a 12-month contract. Kemp was demoted in 1982 from the coordinator position and subsequently her contract was non-renewed. Leroy Ervin's contention was that Jan Kemp's contract was non-renewed because she failed to produce research and showed no interest in it.<sup>100</sup> When Jan Kemp began working in

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<sup>97</sup> UGA Athletic Association, "List of specific needs of athletic association," unknown date.

<sup>98</sup> L. Ervin, Grant proposal to AA by Developmental Studies, 1980.

<sup>99</sup> Ibid.

<sup>100</sup> Ervin lecture to GPC, 2006.

Developmental Studies in 1976, no one in Developmental Studies was on a tenure track. Faculty members in the department were only eligible to go through the tenure process as part of a school or college at the university. They were considered instructors or administrators in their capacity within Developmental Studies. In 1981, Dr. Ervin requested that clarifications be made concerning Developmental Studies becoming a promotion unit.<sup>101</sup> During this same year, Dr. Ervin went up for tenure within the College of Education and was denied due to lack of research. In 1982, Developmental Studies became a promotion unit and Dr. Ervin was granted tenure. Ervin claimed that Kemp had not conducted enough research during her six years of employment at the university and that was the reason her contract was not renewed. Kemp claimed there was nothing clear concerning what constituted enough research in Developmental Studies and that she deserved more time since the guidelines for Developmental Studies weren't established until 1982. As a point of reference, Kemp was demoted from her position as coordinator of English in February of 1982 and her contract was non-renewed in September of 1982. Kemp's lawyers argued that Ervin had demoted her before there were any official promotion and tenure guidelines for Developmental Studies. The university's defense tried to show that Kemp should have done more publishable research. Kemp argued that the expectation of research was not clear and that she had to teach a full load in addition to finding time for research. There was a back and forth argument over how much research Kemp should have done by the time she was demoted and released. In 1981, the University of Georgia established new promotion and tenure guidelines. At this time, the new guidelines stated that faculty members must demonstrate significant accomplishments in two of three areas; research, teaching, and

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<sup>101</sup> Kemp v. Ervin, 651 F. Supp. 495, (US District 1986).



service. Additionally, the guidelines made exceptions for faculty members who have assigned duties that focused on research and service, but not instruction. This became a concern for the faculty members in Developmental Studies because their teaching load was much larger and their focus was instruction.<sup>102</sup>

In response to these changes, William Diehl, the coordinator of the Reading component in Developmental Studies, wrote a letter to the chair of the Promotion and Tenure Guidelines committee, Kathryn Blake. In the letter, Diehl made a plea and argument for the committee to modify the guidelines so faculty members in Developmental Studies could be considered for tenure because their position was expected to focus more on instruction. Diehl made the following argument in his letter.

Consequently, faculty members in Special Studies are engaged in a number of research and service activities. These activities tend to be limited because of constraints imposed by our instructional demands. Therefore, while we will continue to engage in some research and scholarly activity, we feel that the mission of our Division precludes the attainment of a high level of performance in areas other than instruction.<sup>103</sup>

On August 19, 1981, Leroy Ervin sent a memo to Virginia Trotter requesting clarification of the promotion and tenure status of Developmental Studies program. In the letter, Ervin identified two primary issues: first, whether the division of Developmental Studies was a faculty unit; second, whether the division qualified as a separate promotion unit. Ervin stated in a memorandum to Trotter that “this memorandum is intended to identify the issues and to make recommendations concerning promotion and tenure policies for Developmental Studies faculty members.”<sup>104</sup> Jan Kemp was demoted from her coordinator position and she was sent a letter of non-renewal on September 2, 1982. In

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<sup>102</sup> University of Georgia, Promotion and Tenure Guidelines, 1981.

<sup>103</sup> Letter from William Diehl to Kathryn Blake, May 29, 1981, p. 2.

<sup>104</sup> Leroy Erving to Virginia Trotter, August 19, 1981.

the letter, Ervin stated the following as some of the reasons for her contract to be non-renewed.

1. Since the beginning of Dr. Kemp's full-time employment (Sept., 1978), she has not published any scholarly works.
2. Since Sept., 1978, she has not participated in national or regional professional associations.
3. Since Sept., 1978, she has not presented any papers at national or regional meetings of professional organizations.<sup>105</sup>

Kemp's argument was that she had no reason to believe that she should be making significant progress toward scholarly research because no official guidelines were set for Developmental Studies. Her lawyers argued that based on Diehl's letter in May of 1981, less than a year before she was demoted, it was clear that there were no firm guidelines. They then argued that Ervin's memo to Trotter confirmed that guidelines and expectations were not established for Developmental Studies. However, Ervin stated that Kemp should have been making progress in the research area since she was hired in 1978.

Jan Kemp's research consisted of putting together a textbook for teaching English to students in Developmental Studies. Ruth Sabol, who served as the coordinator of English following Jan Kemp, did not disagree with Ervin's argument that Kemp had not produced a significant amount of scholarly research. However, Sabol's argument was that Kemp had produced research that was the equivalent of other professors in Developmental Studies, yet they had not been questioned to the same degree as Kemp.<sup>106</sup> On September 2, 1985, Sabol sent a letter to her attorney asking that a memorandum she wrote concerning issues in the Kemp case. Sabol's memo was an indictment of Ervin and a defense of Jan Kemp's research. In response to Ervin's charge that Jan Kemp's evidence of publication was not research, Sabol made the following argument:

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<sup>105</sup> Leroy Ervin to Jan Kemp, September 2, 1982.

<sup>106</sup> Kemp v. Ervin, 651 F. Supp. 495 (US District, 1986), Testimony of Ruth Sabol.

In Dr. Sabol's view, Ervin is correct. However, Dr. Sherrie Nist, Reading chair was recently promoted to Acting Associate Director, has just completed a book which is being published by a major publishing house. Dr. Nist's book, which Dr. Sabol assumes Dr. Ervin is acknowledging as a publication acceptable in Dr. Nist's list of publications that will be submitted for Dr. Nist's promotion and tenure, is a collection of readings taken from other sources and explanations and exercises accompany those readings. If Dr. Kemp's exercise books, Usage Part I and Usage Part II are not acceptable to count toward Dr. Kemp's promotion and tenure, why does Dr. Nist's book, which is essentially the same kind of publication, count toward her promotion and tenure (if indeed, it does)?<sup>107</sup>

#### Preferential Admissions of Athletes

An analysis of the Developmental Studies audit performed by the Board of Regents provided in-depth information concerning the admissions and exiting of athletes in the Developmental Studies program at the University of Georgia. Ultimately, Dr. Ervin had full control over admissions and exiting decisions regarding the students in the program. The program had around 300 participating students with 10 to 20 percent (30 to 60) of them being athletes at the university. Once students started in Developmental Studies they had four quarters to complete the necessary courses to exit the program. If they were unable to complete the necessary courses with a grade of C or better, they were dismissed from the university. Students could appeal the dismissal and request additional quarters to complete their courses or if their grades were not high enough. In the end, Dr. Ervin made the decisions on these cases. Most appeals of dismissals were submitted by athletes and in most cases, these appeals were upheld.<sup>108</sup> The admission and exiting of students from Developmental Studies proved to be an important part of the Jan Kemp trial and a point of controversy between the faculty in Developmental Studies, the Athletic Department, and the academic administration.

<sup>107</sup> Ruth Sabol to University of Georgia, Memorandum outlining issues in Developmental Studies, August 6, 1985, p. 5.

<sup>108</sup> Ray Cleere and Gordon Funk, Developmental Studies Audit of the University of Georgia, by the BOR, (Atlanta, GA: BOR, 1986), 95.

In many cases, athletes were admitted with combined Scholastic Aptitude Test (SAT) scores as low as 430 and high school Grade Point Averages (GPA) as low as 1.31. (Not all athletes failed to meet the standard requirements for admission to UGA) In a span from 1981-1984, 87 athletes were admitted who fell below the standards for regular acceptance to the university and needed to be admitted to the Developmental Studies program. However, 83 out of 87 or 95% of the athletes that were admitted to Developmental Studies did not meet the standard requirements for admission to the Developmental Studies program (SAT-650 and GPA- 2.0).<sup>109</sup> These athletes went through three separate processes to gain admission to the university.

Most students applying to the University of Georgia during this time period needed a score of 900 on the SAT and a high school GPA of 3.0. If a student did not meet these standards they were either denied admission to the university or denied regular admission and referred to Developmental Studies for potential admission. At this point in the process, athletes who did not meet the standard criteria for admissions were automatically referred to Developmental Studies.<sup>110</sup> It is important to note that the NCAA considered acceptance into a developmental studies program the same as being admitted to the university for the purposes of participating in intercollegiate athletics. Additionally, taking classes in developmental studies met the NCAA rules where students should be making progress toward a degree.

The Developmental Studies program had an admissions and dismissal committee that reviewed all applications referred to them for admission to the program. After students were referred to Developmental Studies, they were sent letters offering them an

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<sup>109</sup> Ray Cleere and Gordon Funk, Developmental Studies Audit of the University of Georgia, by the BOR, (Atlanta, GA: BOR, 1986), 96.

<sup>110</sup> Ibid.

opportunity to be considered for admission into the program. Students could then apply to the Developmental Studies program. Students receiving a referral then took a basic skills examination to measure their English, Mathematics, and Reading skills. The committee, made up of faculty members and staff members within the Developmental Studies program, reviewed all applicants in the pool. The program had an initial cutoff for admission of a combined SAT score of 650 and high school GPA of 2.0. However, the NCAA only required athletes to have a 2.0 GPA upon graduation from high school to be eligible for participation in intercollegiate athletics. After admitting students meeting the cutoff score, the committee reviewed appeals and any other special circumstances using a basic skills examination and other factors in their consideration. Any students left were sent rejection letters.

At this point in the process, a student could appeal the decision of the committee to the Vice President for Academic Affairs, Virginia Trotter. Trotter could then grant the appeal and accept the student into the Developmental Studies program. To give an example, for Fall Quarter 1982, 51 students were administratively admitted after initially failing to meet the standards for admission into the Developmental Studies program. Twenty-five of these students were athletes. In one case a student with a 1.31 high school GPA and a 480 on the SAT was initially rejected, but then accepted by the committee.<sup>111</sup> Ervin created a contradiction according to Kemp's lawyers in relation to allowing athletes with low SAT and GPA scores to attend. Ervin co-authored an article in the Journal of College Student Personnel in March 1985, less than one year before the trial but after Kemp filed her lawsuit. In the article, he used current athletes in the

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<sup>111</sup> Ibid.

Developmental Studies program as test subjects. In the discussion section of the article, Ervin argued

What action, then, is in the best interest of the student athlete who is academically deficient? A modification of Rule 48 that would prohibit the admission of students who fail to meet the stated criteria on aptitude tests and high school performance would prevent the continued exploitation of these individuals.<sup>112</sup>

Ervin supported admitting student athletes in his position and at the same time argued in an article published in a national journal that they were being exploited. During the Board of Regents Developmental Studies Audit following the trial, Ervin and Trotter were interviewed together. During the interview, they were asked about the pressure they felt from President Davison and the Athletic Association to admit extremely weak students. The following exchange between the interviewer, Ray Cleere, Trotter, and Ervin highlights the pressure that Trotter and Ervin felt to admit low academic students to the point that it was considered automatic.

Cleere: All right. Let's talk about the athletic department- Dick Copas. . .  
 Ervin: Copas would say, Well, you know, Vince is gonna get his way, so, you know, I. . . he's gonna send me to Dr. Trotter, and if Dr. Trotter says no, then he's going to go to the President, and he's gonna get what he wants from the President.  
 Cleere: All right. Were there examples. . . and I'm not interested in the names at this moment – were there examples where Copas could not get you to do something with a student, could not get Trotter to do something with a student, and the next thing you know, you're having a meeting with the President. Did that ever occur?  
 Ervin: Well, let me put it this way.  
 Trotter: Not overtly.  
 Cleere: All right. Okay.  
 Ervin: I think that if Dick has come to me and then he's gone to Dr. Trotter. . .  
 Trotter: Many, many times. . .  
 Ervin: Many times. . . because- I mean, my. . .  
 Cleere: Concerning the admission or exiting of students. . . excuse me.  
 Trotter: It's more the uh. . . I've only been involved in terms of the exiting.  
 Cleere: Oh, in terms of exiting. . .  
 Trotter: Uh-hum.

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<sup>112</sup> L. Ervin, S. Saunders, Gillis, & M. Hogrebe, "The Right Direction but Short of the Mark", Journal of Student Personnel, (Washington, DC: ACPA, Mar. 1985), 123.

Cleere: Okay.

Erving: The admissions was pretty much automatic.<sup>113</sup>

Ervin described a specific instance where he felt he had no choice in admitting an athlete.

There was one woman that we had no choice- well, she was an athlete, but she was a non-revenue producing athlete. But the point is, is that she was going to be taken- that was made clear. She was a [relative] of one of the most prominent athletes.<sup>114</sup>

Ervin and Trotter both felt the President did not support their concerns about the admission of athletes. The two academic administrators responsible for admitting these athletes were against it and said they felt pressure from the President to allow these students to be admitted.

In his testimony during the trial, President Davison addressed why the university chose to support admitting students who only had a 2.0 GPA. Even though he was outwardly touting his role in the increasing of academic standards, Davison defended why UGA chose not to take its own stand by stating,

What we call came to a common standard that is known as the standard that we have today and that standard was that the only requirement for participation in eligibility in intercollegiate athletics was a 2.0 high school GPA. We all embraced that standard even though we knew there was some risk at the time and indeed that has proved to be there. That being the way the 2.0 came about, it was to insure a level field of competition.<sup>115</sup>

In response to how the university could admit students at such a low academic level, President Davison's response was the university just accepts the problem.

We treat it differently because it is different and we have treated it different as a society. We have given it a large—we have given it a position publicly that we simply don't give to anything else that a youngster does that age and, in fact we had found that in those two sports [football and basketball] particularly there has been absolutely no requirement for performance in the high schools. The

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<sup>113</sup> V. Trotter & L. Ervin, interview by Ray Cleere, for BOR audit of Developmental Studies, March 5, 1986, p. 21-23.

<sup>114</sup> L. Ervin, interview by Ray Cleere, for BOR audit of Developmental Studies, March 5, 1986, 13-14.

<sup>115</sup> Kemp v. Ervin, 651 F. Supp. 495 (US District: 1986), Fred Davison Testimony, 3937.

question that should be asked in this sense is how does a student get out of an accredited high school with a 2.0 HSGPA unable to read. All the university does is accept the problem, we don't create it, and we simply try to do the best we can with it.<sup>116</sup>

Davison was always open and unapologetic about the fact that athletes and specifically football and basketball players were given preferential treatment beyond that of the regular student and even athletes from non-revenue producing sports. He focused on the high schools. He always defended his stance on lowering standards by stating that every university with revenue-producing football was like the University of Georgia. "That existing pool is very narrow in football and basketball and the pressure against that pool is national, it's not just the University of Georgia, it's not just Michigan, it's not just Michigan State and it's relatively similar."<sup>117</sup>

Davison also said that athletes going into revenue-producing sports such as football and basketball were more academically deficient than students in non-revenue producing sports.<sup>118</sup> In an interview with Henry, he agreed that football and basketball were treated differently. He also identified a race and class component that evolved as a theme during this analysis. In describing the recruitment of athletes into revenue-producing sports, Henry said, "You don't go to the ghetto to find a gymnast."<sup>119</sup>

In response to Davison's answer concerning why they lowered admissions standards for athletes in revenue producing sports, Hue Henry asked the following question,

Well, Dr. Davison, by perpetuating that system, by admitting them with lower admission standards and so forth, aren't we saying to the young kids in high schools as an educator, run fast, bounce the ball, throw it a long way, push it

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<sup>116</sup> Kemp v. Ervin, 651 F. Supp. 495 (US District: 1986), Fred Davison Testimony, 3983.

<sup>117</sup> Kemp v. Ervin, 651 F. Supp. 495 (US District: 1986), Fred Davison Testimony, 3983.

<sup>118</sup> Ibid.

<sup>119</sup> Hue Henry, interview by author, 1 NOV 2006.



through the hoop, don't worry about your books, the University of Georgia will let you in, lower admission standards, you are perpetuating the system, aren't you?<sup>120</sup>

Davison's response to this was that the University of Georgia was not perpetuating the system because he was involved in putting together Proposition 48. As these practices continued on campus, President Davison was promoting UGA as a leader in athletic reform through his involvement with decisions on national standards. President Davison was actively involved in the creation of Proposition 48 which increased admissions standards for athletes. During the same time as the Jan Kemp trial, the NCAA was putting Proposition 48 into action. Proposition 48 stated that athletes must have a 2.0 high school GPA and a combined 700 score on the SAT in order to be eligible to participate in intercollegiate athletics. Prior to 1984, athletes were only required to have a 2.0 high school GPA to participate in intercollegiate athletics like football. Davison felt this new rule would make a difference in academic reform of athletics. In contrast, Leroy Ervin co-wrote an article entitled, "The Right Direction, but Short of the Mark." In the article Ervin and his co-authors argued that an institution's admission standards should apply to all incoming freshmen.<sup>121</sup> Though these standards were still far below the regular admission standard for UGA, Davison believed this was great progress and that he was a leader in this movement. However, his involvement in trying to raise standards did not change his view of preferential treatment of athletes at the university level.

While the university was pursuing this new level of academic standards for athletes, he felt that it should not "unilaterally disarm"<sup>122</sup> its athletic program. In the end,

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<sup>120</sup> Kemp v. Ervin, 651 F. Supp. 495 (US District: 1986), Fred Davison Testimony, 3984.

<sup>121</sup> Leroy Ervin, Sue Saunders, & H. Lee Gillis, The Right Direction but Short of the Mark, College Board Review, Spring 1984, n131, p. 15-19.

<sup>122</sup> Ibid.

Davison was very open about the fact that lower admission standards for football players were in place because they could produce revenue. He saw that football players had a utilitarian benefit to the university and even if they never made progress toward graduation, the mere fact of being exposed to the university and learning to read and write did them no harm. This statement is evidenced in the following exchange during Davison's testimony during the trial:

Hue Henry: Now, that is a curious phrase you just used, unilateral disarmament. Where did you hear that?

Fred Davison: I have been using it for five years. I have said it 10,000 times to 10,000 audiences.

Henry: You are going around the state talking about athletics in military terms?

Davison: Sure, it's something—

Henry: We won't have the graduates that we need?

Davison: No, it's simply that one institution in our community can't drop out and survive. What we want is a level of play. That is what the NCAA is basically for, what is—what all the rules were set up for, the number the of scholarships was simply to equalize competitive position and that's what we are for. We would like to see it equalized nationally. If we can't, we'll equalize it in a small group. By the way, we have been successful. Proposition 48, even though indexed, goes into effect this year.

Henry: Mr. Davison, isn't it a fact that these relaxed admissions standards are in place because you want kids over there that can produce revenue?

Davison: In part.<sup>123</sup>

Hale Almand, the attorney representing the University's interest made the following statement in his opening statement of the trial. "We may not be able to make a university student out of him, but if we can teach him to read and write, maybe he can work at the post office rather than a garbage man when he is finished with his athletic career."<sup>124</sup>

In an opinion editorial in the UGA student newspaper, The Red and Black, Alex Johnson, a graduate from UGA in 1984, wrote in response to an article by Davison where

<sup>123</sup> Kemp v. Ervin, 651 F. Supp. 495 (US District: 1986), Fred Davison Testimony, 3986-3987.

<sup>124</sup> Kemp v. Ervin, 651 F. Supp. 495 (US District: 1986), Opening statement of Hale Almand, attorney for the University of Georgia.

he stated that athletics had become too professionalized in high schools and that forced the universities to be more professionalized and lower standards.

Very simply, don't admit students who can't do the work. But he won't do that, of course. There's too much money at stake. TV money dictates lowered standards. That's a fact of collegiate administrative life. And that, of course, very clearly lays the blame for illiterate student-athletes on the greed of athletic departments and university fund-raisers.<sup>125</sup>

Davison justified the admission of athletes with below standard admission scores by arguing that the university just accepted a problem created by high schools. He argued that the university needed these athletes to maintain a competitive advantage and that even if they didn't graduate, if they were exposed to some college, they would be better off and the university will have done no harm. Once the athlete's were admitted, Trotter and Ervin both said they felt an obligation to help these students.<sup>126</sup> The exiting of these low performing athletes became the next phase of Kemp's concerns.

#### Administrative Exiting of Athletes

Kemp's disagreement with Ervin and Trotter over the exiting of nine scholarship athletes at the end of Fall Quarter, 1981 triggered the demotion and firing of Jan Kemp. In this particular situation, there were ten students who came to the end of the fall quarter in 1981 without having passed the necessary English course with a grade of C or better. The students received D's in the course. Fall Quarter 1981 also marked the end of their fourth quarter in the program.<sup>127</sup> According to UGA policy at the time, students needed to complete their necessary course work in Developmental Studies within four quarters of

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<sup>125</sup> Johnson, Alex, "Davison rhetoric hollow on athletics." The Red and Black. January 25, 1985, P. 4- this editorial was written before the actual Jan Kemp trial but was in response to an article Fred Davison wrote in the Phi Kappa Phi journal at the University of Georgia.

<sup>126</sup> Leroy Ervin and Virginia Trotter, join interview conducted by Ray Cleere, tape recording, March 5, 1986.

<sup>127</sup> Jan Kemp to Leroy Ervin, letter outlining concerns about exiting students from program, 1 February 1982.

admission to the program in order to exit and transfer into one of the regular schools or colleges within the university.<sup>128</sup>

The following is taken from the letter written to Dr. Trotter and Dr. Ervin about the faculty's concerns over the exiting of students that did not pass their classes with the required C average:

The ruling to which we object is the decision to exit fourth quarter scholarship football players in spite of their having earned D's rather than the C's as required by Developmental Studies policy for fourth quarter exit eligibility. Since the program's inception, fourth quarter students have rather consistently been required to earn the C to exit; in fact, even this quarter, the decision was not applied to all students who failed to make C's. Another student who likewise earned a D in the fourth quarter was dismissed. Based on this history, it seems clear that the exit policy has been overruled this quarter only because scholarship athletes failed to make the necessary grades and that, indeed, it was applied only to them.<sup>129</sup>

At the end of Fall Quarter 1981, nine of the ten students in this situation were exited from the program into the regular curriculum by administrative override by Ervin and Trotter. An override meant that despite students not being recommended for exit by the faculty members and not passing courses with the necessary C average, they were allowed to exit the program by decision of Ervin or Trotter. All nine of the students were athletes. The one student who was not exited was not an athlete.

In this particular situation, Kemp protested the exiting of these athletes and brought the concern up in the admissions and dismissal committee meetings with other faculty members. Other faculty members stated their concerns about the students being exited and Kemp suggested that they write a letter of protest. At that time, Dr Ervin stated that Virginia Trotter, Vice President for Academic Affairs, was involved in the

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<sup>128</sup> University of Georgia, Department of Developmental Studies, Developmental Studies Manual, (Athens, GA: The University of Georgia, 1981).

<sup>129</sup> Letter from Jan Kemp to Virginia Trotter and Leroy Ervin, The University of Georgia, February 1, 1982.

decision so they should direct the letter to her. There was debate within the committee over what the letter should say and about their concerns.

Dr Ervin arranged for the faculty to meet with Dr. Trotter. The meeting happened, but without Jan Kemp; she had to be at a doctor's appointment because she was pregnant at the time. Unbeknownst to Ervin, Trotter, and the other administrators present, a faculty member named Theresa Timmons secretly taped the meeting. During the meeting, faculty members in Developmental Studies discussed their frustrations and difficulties in working with athletes. They were trying to teach athletes who were reading on a third or fourth grade level. One faculty member commented,

I taught the six, uh, that are really in question this quarter and while they did make some progress we're talking looking very hard for it. And every theme I gave back was an F, occasionally an F+ because I, I felt demoralized. They would look at them, they would come in excited, waiting for their grades, F and finally they'd look at you and say, 'Am I doing any better?' And I would say, 'Well, yes, but look where you started.' So it's this constant reassessment of their abilities, and they're constantly being put down and the easy thing would be to give them a D or even an occasional C- and say, 'You've come so far from misspelling every word on this paper to only misspelling every third word. This is real progress.' But we're putting F's on them so in a social sense, they're demoralized by it.<sup>130</sup>

Hue Henry felt that this tape was one of the most important pieces of evidence from the trial. In an interview, he commented on its importance.

Well, I think probably the most explosive evidence, and there was a lot. For instance, a kid getting a grade for making a touchdown. I think beyond that, I think what was most significant and explosive to the jury was the tapes. The Theresa Timmons tapes. They were talking about these athletes like they were manufacturing products and they were revenue producing. What had happened was the faculty were in a uproar so Ervin and some people from the athletic association. I think Dick Copas was there. They came to kind of mollify the faculty in that meeting. Leroy Ervin was fairly candid about why this situation was occurring. In the course of that conversation he was just saying things that it was obvious that revenue production was more important than academics. That's

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<sup>130</sup> Teresa Timmons, audiotape recording of faculty meeting in the Developmental Studies Program, Fall 1983.

pretty outrageous and to admit it right there on tape during the hearing. There saying yes, we knew they couldn't graduate, but they are special students that have revenue producing skills that this university needs. So the faculty are saying to them that "so you are saying that this is a fraud, basically." He was trying to be candid to calm them down, but Theresa Timmons had a tape recorder.<sup>131</sup>

The conversation in this meeting reached the point of discussing the possibility of creating a literacy component that would be a "Pre-Developmental Studies" program where these students could get basic reading and writing and then could move into Developmental Studies where they took classes to prepare them for the regular college curriculum.<sup>132</sup> Dr. Ervin proposed that Developmental Studies create an adult literacy program in response to helping these athletes work their way up from their current third-grade level of reading to a level that was comparable to the work being done in Developmental Studies.<sup>133</sup> Dr. Trotter's response was the following,

I don't even know whether it's possible for us to do that or not. I think we can certainly put them in a class by themselves if they seem to be having problems or when they don't make as much progress as other students so you don't hold other students back.<sup>134</sup>

Some athletes that were exited from Developmental Studies during fall quarter of 1981 fell into the category of the student described here. In reading the discussion at the faculty meeting that was taped by Theresa Timmons, it is evident that faculty concerns were not isolated to the exiting of these nine athletes. For example, one faculty member commented in the meeting, "my concern is we don't seem to see any changes on the part of the recruiting coaches to recruit more students who are competent and recruit fewer

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<sup>131</sup> Hue Henry, interview by author, November 1, 2006, p. 6.

<sup>132</sup> Teresa Timmons, audiotape recording of faculty meeting in the Developmental Studies Program, Fall 1983.

<sup>133</sup> Teresa Timmons, audiotape recording of faculty meeting in the Developmental Studies Program, Fall 1983.

<sup>134</sup> Teresa Timmons, audiotape recording of faculty meeting in the Developmental Studies Program, Fall 1983, p. 12.

students who are deficient.”<sup>135</sup> Another faculty member argued about the difficulty in getting students to progress to the level of a college student. “If our criteria is to make them into college students, that’s the criteria we’re judging them by, that’s the criteria we’re grading them by. We are constantly putting them in a bad light. Because they can’t do that no matter what.”<sup>136</sup> The exiting of students was very difficult for faculty members because they worked so hard with the athletes, but they knew they weren’t prepared for college work. Then, when athletes were exited out of Developmental Studies without their recommendation it caused faculty members to become upset, with Jan Kemp being the most vocal member of the faculty.

As a result of the Jan Kemp trial, the Board of Regents performed an audit of the Developmental Studies program. The Board took a close look at the exiting of students and isolated athletes as a variable in that investigation. The audit looked at students in the program from 1981 to 1984. Some policies changed slightly from year to year, so the auditors looked at each year individually. Fall Quarter of 1981 is the quarter that included the controversial exiting of nine athletes that were highlighted in trial. According to the policies in place during Fall Quarter 1981, students in Developmental Studies were required to meet standards at the course, component, and program level.<sup>137</sup> For example, in the English component, students needed to pass a class and their final examination with a grade of B or better in the first two quarters and a C or better in the third and fourth quarter. Students then needed to take the classes in a prescribed

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<sup>135</sup> Teresa Timmons, audiotape recording of faculty meeting in the Developmental Studies Program, Fall 1983.

<sup>136</sup> Teresa Timmons, audiotape recording of faculty meeting in the Developmental Studies Program, Fall 1983, p.15.

<sup>137</sup> R. Cleere, “Report to Chancellor”, Developmental Studies Audit for the University of Georgia, (Board of Regents, March 14, 1986), 4.

sequence based on admissions placement and lastly needed to score at least a 64 on the Basic Skills Examination. If students failed a class with an F they were required to retake the class. To then exit from the Developmental Studies program, the student needed to meet similar expectations in the Mathematics and Reading components if they were placed in those components.<sup>138</sup>

If a student was unable to exit Developmental Studies according to the policies in place, there were other ways a student could exit the program. A student could receive an administrative exit based on the recommendation of an instructor. In some cases, exits were handled by Dr. Ervin or Dr. Trotter. For example, Jan Kemp's lawyers challenged Dr. Trotter on the stand concerning her decision to allow a member of the football team to receive a fifth quarter to try and pass composition.<sup>139</sup> Additionally, she directed the department to create a one-person class for this student. Her letter was written on March 23, 1983 and stated the following,

After careful examination of [this football player's] academic history, including faculty verbal reports, I am directing you to exit him from Developmental Studies effective Spring quarter. I am aware, however, that [he] still has some need for additional work to further improve his composition skills, therefore, I am also directing that an individualized program in composition be developed Spring quarter tailored to meet [this football player's] needs.<sup>140</sup>

In the Fall Quarter of 1981, the department used a standard deviation to make decisions on exits using the Basic Skills Examination, so a student could be considered for administrative exit if he scored five points below the benchmark score of 64. If a student was unable to exit based on these situations, he could also appeal the decision. The nine athletes that were administratively exited in 1981 were students that failed

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<sup>138</sup> Ibid.

<sup>139</sup> Kemp v. Ervin, 651 F. Supp. 495, (US District, 1986), Virginia Trotter testimony from 1/22/1986, 221.

<sup>140</sup> Kemp v. Ervin, 651 F. Supp. 495, (US District, 1986), Virginia Trotter testimony from 1/22/1986, 245..



English, had reached their limit of four quarters, and had not scored above the benchmark score on the Basic Skills Examination. Additionally, they did not have the recommendation of the instructors to exit the program. In her testimony at the trial, Dr. Trotter continued to state that she did not recall inquiring about the one non-athlete that was not exited. She did remember many of the athletes and she stated that the trial and the subsequent audit of Developmental Studies uncovered additional forms of preferential treatment designed to assist athletes in maintaining eligibility and to help them exit Developmental Studies.<sup>141</sup>

Faculty members who taught athletes in Developmental Studies realized that many of these students were so far behind in the curriculum that they might not pass any of the Developmental Studies courses. In response to this situation, the Developmental Studies program and the Athletic Department created additional forms of preferential treatment to assist these athletes. Faculty members taught classes with only one-student on the roster and they were generally athletes. Developmental Studies created a laboratory that allowed athletes at extremely low levels of academic proficiency to take classes with one-on-one tutoring or individualized instruction. In other cases, faculty members spent additional evening hours tutoring students to help them catch up. Jan Kemp mentioned inviting students to her house to tutor them or going to the athletic dormitories to tutor students.<sup>142</sup> Coaches and academic advisors in the athletic department advised athletes to take certain courses that would help them maintain eligibility even if it was found those classes did not help them progress toward graduation. The trial and the subsequent Board of Regent's audit found that these activities were the

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<sup>141</sup> Ibid.

<sup>142</sup> Jan Kemp, interview by author, November 22, 2006.

norm in Developmental Studies. Additionally, it was found these activities were supported and even expected by upper level administrators. During the trial, student reporters for The Red and Black student newspaper told stories such as the following to show the impact the system had on the athletes.

A 20-year-old sophomore at the University of Georgia collapses at his desk in his McWhorter Hall room, the dormitory that houses scholarship athletes. It is just a little past seven in the evening, and the final traces of the impressive southern sunset can still be seen from the window of the exhausted athlete's room. Although it is still early, the student has found his literature for English 102 impossible to absorb. The challenging schedule has left the athlete with little energy to devote to studying and, after a brief period of resistance, he finally falls asleep. Another day has passed with yet another assignment undone.<sup>143</sup>

#### Other Preferential Treatment of Athletes

During the Board of Regents Audit of Developmental Studies programs in the State of Georgia, Ray Cleere conducted interviews with key personnel at the University of Georgia. Cleere was the lead auditor for the Board of Regents and was charged with investigating Developmental Studies programs around the state of Georgia. From the interviews, Cleere argued that the Developmental Studies program had created a laboratory that “operated as a distinct administrative unit” within Developmental Studies. The laboratory was designed to offer specific one-on-one tutoring and instruction to students who came to the university at the lowest level of academic proficiency. The entire laboratory was funded by a \$200,000 grant from the Athletic Association. Additionally, the primary users of the laboratory were athletes.<sup>144</sup> Students who used the laboratory were able to take their necessary requirements through the laboratory instead of taking classes through the regular Developmental Studies curriculum. Cleere stated

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<sup>143</sup> Charles Odum, “Developmental Studies under fire,” The Red and Black, Vol. 90, no. 72, March 2, 1983., 1.

<sup>144</sup> R. Cleere, “Report to Chancellor”, Developmental Studies Audit for the University of Georgia, (Board of Regents, March 14, 1986), 96.

that “this is an unfortunate practice which has the potential to subvert standards established for exiting Developmental Studies.”<sup>145</sup> Cleere’s argument was that the laboratory was essentially funded by the Athletic Department through a grant, was primarily used by athletes, and the instructors and tutors with control of the curriculum were paid for through the grant and thus by the Athletic Department.

Throughout the interviews, Cleere also found evidence that athletes were receiving their academic advising through the coaches and academic advisors in the Athletic Department. Dick Copas, who was an Athletics Counselor, told Cleere that the work they did was a supplement to the academic advising done in the academic colleges.<sup>146</sup> After a review of the academic transcripts of athletes, Cleere found that they were taking courses designed to help maintain eligibility for athletics and not to maintain progress towards graduation. When Cleere interviewed Curt Fludd, an academic counselor for athletes, Fludd admitted that there was a process for “assisting” athletes with weaker academic proficiency.

No primary academic advising was done through the Athletic Department. However, when presented with selected transcripts of academically weak athletes, he admitted and described a process by which students were often assisted in selecting those courses that would improve their academic standing and indirectly maintain their athletic eligibility.<sup>147</sup>

In analyzing the interview of Dr. Marty McFadden, an academic advisor in the program, Cleere argued that “her testimony represented a departure from Mr. Fludd’s in that she clearly described a practice by which certain students were advised exclusively by the Athletic Department without the involvement of assigned academic advisors.”<sup>148</sup>

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<sup>145</sup> Ibid., 96.

<sup>146</sup> Ibid., 97.

<sup>147</sup> Ibid., 98.

<sup>148</sup> Ibid., 98.

McFadden also reviewed the transcripts of athletes for Cleere and identified classes that were considered easier for athletes. Many of these courses were upper-level courses in the College of Education and by letting athletes take these courses, the University was in violation of its accreditation. The following is a list of courses tagged by athletic department advisors as easy courses. In some cases, athletes still in Developmental Studies took these courses before exiting to the regular curriculum.

EIA 332- Industrial Arts and Handicrafts  
 ENT 201- Insects and Man  
 EPY 401- Psychology of Early Childhood  
 EPY 304- Learning and Motivation  
 EBE 401- Business Communication  
 EBE 507- Office Management  
 SED 544- Safety in Sports & Recreation  
 EPH 528- Sociology of Education  
 EAV 401- Basic Instructional Media Competencies  
 ECP 399- Career Development for Life Planning  
 HED 370- Community Health Organizations  
 CFD 395- Introduction to Child Development<sup>149</sup>

In Cleere's view, the practice of allowing these students to take these classes was in clear violation of the Board of Regents policy. However, he stated that "even more significantly, it represents a deviation from standard practice, a compromise of the natural sequence of the Core Curriculum, and a clear breach of the academic integrity of the institution."<sup>150</sup>

#### The Events that Led Kemp to Sue

On February 3, 1982, Jan Kemp was removed from her position as English coordinator in the Developmental Studies program.<sup>151</sup> After bouts with depression, the

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<sup>149</sup> Ibid., 100.

<sup>150</sup> Ibid., 100.

<sup>151</sup> Kemp v. Ervin, 651 F. Supp. 495 (US District, 1986). May 26, 1982, A summary of the complaint and counts from the official lawsuit filed by Jan Kemp in Superior Court of Clarke County, State of Georgia.

birth of her first child, and two attempted suicides, Jan Kemp officially filed her lawsuit in the Superior Court of Clarke County in Athens, GA on May 26, 1982. She was filing suit against Leroy Ervin, her former supervisor and Director of Developmental Studies at the University of Georgia. The charges in her complaint were the following,

1. On or about March 1982, Ervin wrote and/or caused to be written certain libelous letters.
2. On or about February 1982, and continuing thereafter, Ervin did willfully interfere with Kemp's contract of employment with the Board of Regents of the University System of Georgia
3. On or about March, 1981, and continuing thereafter Ervin did intentionally inflict mental and emotional distress upon Kemp.
4. At all times, Ervin acted willfully, wantonly, recklessly and maliciously and in bad faith.<sup>152</sup>

After a preliminary hearing and depositions, Kemp additionally filed suit against Dr. Virginia Trotter, Vice-President for Academic Affairs and the Board of Regents as defendants in the lawsuit. The trial was moved from Superior Court in Clarke County, Athens, GA to United States District Court for the Northern District of Georgia Atlanta Division in Atlanta, GA.

The burden of proof for Jan Kemp's lawyers was to prove that Kemp spoke out in faculty meetings and to her supervisors about issues of great public concern. They needed the jury to believe that her demotion and firing were violations of the First Amendment in the United States Constitution that protects freedom of speech.<sup>153</sup> In essence, the lawyers needed the jury to believe that preferential treatment of athletes and

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<sup>152</sup> Kemp v. Ervin, 651 F. Supp. 495 (US District, 1986). May 26, 1982, A summary of the complaint and counts from the official lawsuit filed by Jan Kemp in Superior Court of Clarke County, State of Georgia.

<sup>153</sup> Kemp v. Ervin, 651 F. Supp. 495, (US District, 1986), January 7, 1986. In his opening statement to the jury in the Jan Kemp trial, one of her attorneys, Pat Nelson, laid out their burden of proof as, "whether the defendants in fact fired Dr. Kemp because she spoke out on issues of great public great public concern. Actually, now, the term "government speech" means whistleblowers can be fired.

corrupt practices in Developmental Studies related to this treatment were of great public concern.

According to Kemp, Developmental Studies was the focus of academic corruption. In an interview for Atlanta Magazine, Kemp stated that “she became aware, one by one, of departmental irregularities that flew in the face of university standards.”<sup>154</sup>

Kemp challenged her supervisor Leroy Ervin and the system during her time in Developmental Studies. Kemp’s view was that standards should not be lowered regardless of type of student. For example, on June 30, 1978, Kemp wrote a letter to Leroy Ervin challenging a move to lower the necessary grade to exit the English component of Developmental Studies from a B to a C. Kemp’s argument was that if a student got a C in Developmental Studies, they were likely to get a D in regular English 101. Kemp’s argument was supported by a professor in the English Department. In the letter, Kemp states, “As Dr. Breme pointed out in an earlier staff meeting, English 101 failures are already extremely high for our students. Why assure more failures by allowing an even higher number of premature exits.”<sup>155</sup>

The next year, Kemp pressed Ervin again concerning being lenient towards Developmental Studies students. In a memorandum written on December 18, 1979, Kemp argued that the dismissal policy in Developmental Studies was too lenient. At the time, if students received three grades of F in Developmental Studies or two grades of F in the same Developmental Studies course, they were dismissed from the university. Kemp argued that students should be dismissed after two F’s at any point in time during their experience in Developmental Studies. Kemp stated that “it is not the nature of the

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<sup>154</sup> Logan Mabe, “Jan of Arc,” Atlanta Magazine. February 1991. Thomas G. Casey, Publisher, p.104.

<sup>155</sup> Jan Kemp, to Leroy Ervin, 30 June 1978, transcript in hand of Hue Henry personal collection, Athens, GA.

university that a student who can perform so poorly in such a supportive environment as ours can survive and do well in the more competitive, less supportive world of regular course work.”<sup>156</sup> Ervin responded two days later on December 20, 1979 through a memorandum. In his response, Ervin disagreed with Kemp about the leniency of the dismissal policy having a correlation to future success. Ervin stated that “the dismissal policy has little or no relationship as to how effective an educator is with students in a teaching-learning situation.”<sup>157</sup>

On January 18, 1982, two weeks before her demotion, Kemp challenged the pass and fail eligibility of athletes in an admissions committee meeting. Kemp asked, “how can we maintain our integrity when a student has not exited but is transferred from the program.”<sup>158</sup> At the same meeting, Dr. Ervin responded to Kemp’s arguments by stating that the department needed to form a policy so that exceptions to the exit policy could only be made by Dr. Trotter, the Vice-President for Academic Affairs. From this meeting, Kemp agreed to draft a letter to Dr. Trotter on behalf of the faculty stating their concerns about the exiting of student athletes.<sup>159</sup> The subsequent meetings of the admissions committee involved the committee discussing the letter that Kemp wrote and the issues concerning the exiting of athletes. The committee decided to send the letter to Dr. Ervin and a copy to Dr. Trotter.

The letter was given to Dr. Ervin, but it was never sent to Dr. Trotter because Kemp was demoted before it could be sent to Dr. Trotter. During her testimony, Kemp

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<sup>156</sup> Jan Kemp, to Leroy Ervin, 18 December 1979, transcript in hand of Hue Henry personal collection, Athens, GA.

<sup>157</sup> Leroy Ervin, to Jan Kemp, 20 December 1979, transcript in hand of Hue Henry personal collection, Athens, GA.

<sup>158</sup> Developmental Studies Department, “Minutes of the Admissions Committee,” (Athens, GA, The University of Georgia, January 18, 1982, photocopied).

<sup>159</sup> Ibid.

speculated that the letter was never sent to Trotter out of fear. “No it was never sent, because I was demoted after that I think the other members felt that it was a result of that and they didn’t want retaliation, too.”<sup>160</sup> In later testimony Kemp argued that if the university continued to give special treatment to athletes then, “students would get the impression that they didn’t have to do the work because they were athletes.”<sup>161</sup>

On February 3, 1982, Kemp met with Ervin and at that meeting he demoted her as coordinator of the English component. For the time being, she remained on the faculty as an instructor and was no longer a 12-month employee. Immediately after she was demoted, Kemp filed a grievance to appeal the decision and hired a University of Georgia law professor, Larry Blount as her attorney. In her statement of grievance, Kemp argued that she was removed from her administrative position due to her “long-standing vocal opposition to division practices which, to her mind, were potentially adverse to the program and its participants.”<sup>162</sup> Some of the practices she spoke of were reversing admissions committee decisions, pressuring faculty members to change grades, overruling exiting decisions, and special accommodations for athletes. After the panel heard Kemp’s grievance, she was informed that her appeal was denied because there were not procedural errors involved in the demotion. Kemp was unhappy with the decision of the panel and moved forward with her lawsuit.

Kemp felt the problems rested within the administration’s unwillingness to change. In an interview, Kemp commented on her feelings about many of the key people in athletics and academics. When asked in an interview to respond with her thoughts

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<sup>160</sup> Kemp v. Ervin, 651 F. Supp. 495, (US District, 1986), Preliminary Hearing, April 21, 1983 p. 74.

<sup>161</sup> Ibid., p. 86.

<sup>162</sup> Jan Kemp, “Statement of Grievance” (Athens, GA, The University of Georgia, March 18, 1982, photocopied), 1.



about Vince Dooley, she said, “I don’t know why Vince didn’t want the integrity. So I don’t know why he picked on me.”<sup>163</sup> In his autobiography, Vince Dooley commented on a meeting with Jan Kemp in response to a fifteen-page letter she sent him with her concerns about the athletic department’s involvement in preferential treatment of athletes. In the letter, Kemp challenged Dooley on some of the practices in the athletic department. In addition, she believed that coaches were encouraging players to write slanderous letters about her. Dooley’s response was

About 70 percent of she was talking about was baseless. The other 30 percent of her questions I couldn’t answer but I promised to check them out. After checking them out, about half of those concerns had no basis either. But the remaining 15 percent of things she raised included some very legitimate problems that needed to be addressed.<sup>164</sup>

Kemp also felt that upper-level administrators such as Dr. Trotter and President Davison were not interested in maintaining academic integrity.

When asked about her thoughts on the role of Fred Davison, Kemp responded with the following statement. “There was no reason for him to be there. I am pretty sure it was about 16 times that I called him for an appointment and I finally got it. And that was it because there were no reforms. Zilch, zero.”<sup>165</sup>

In regard to Leroy Ervin, Kemp stated during the trial that he was not her favorite person. In response to Hale Almand’s challenge to her that it was “sort of a classic understatement,” Kemp replied, “not entirely Mr. Almand. Through nightly prayer I have conquered my anger and gained personal strength.”<sup>166</sup> During an interview with Jan Kemp, when asked about her thoughts on Leroy Ervin, she responded, “I never heard

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<sup>163</sup> Jan Kemp, Interview by author, tape recording, November 22, 2006, p. 2.

<sup>164</sup> Vince Dooley, *My 40 Years at Georgia*, p. 134.

<sup>165</sup> Jan Kemp, interview by author, tape recording, November 22, 2006, p. 3.

<sup>166</sup> *Kemp v. Ervin*, 251 F. Supp. 495, (US District, 1986), Transcript from February 5, 1986, p. 4193.

anything that came out of his mouth that would benefit anybody. And most of the time he's trying to say things to scare people away from him. And I don't scare so easy."<sup>167</sup>

While on the stand, Almand questioned Kemp's motives and argued that she was pursuing the lawsuit for monetary gain; there are a variety of perspectives on why Kemp became the key whistleblower.

For example, the following is the exchange between Kemp and Almand when he pressed her on why she was suing Ervin.

Almand: Now, Dr. Kemp, of course, you are asking this jury to award you damages?

Kemp: Yes, sir.

Almand: Monetary damages?

Kemp: Yes, sir.

Almand: And you will want to convince them that your cause is just so you will get money?

Kemp: Yes, sir.

Almand: And to that end you will say whatever is necessary to accomplish that purpose, won't you?

Kemp: No, sir. Money has never been my primary motivating force. Had it been, I wouldn't have become a teacher.

Almand: All right.

Kemp: The principles involved are far more important to me than money.

Almand: So you would be just as happy if all you got was a dollar?

Kemp: As long as the university was cleaned up, yes, sir.<sup>168</sup>

Hue Henry believed that Kemp personified the typical whistleblower. In an article for Atlanta Magazine in 1991 entitled "Jan of Arc," Kemp's lawyer, Hue Henry, described Jan Kemp within the context of whistleblowers.

I've represented a lot of whistleblowers, so I've come to know them in my work and they are definitely a type. From my experience, most of us wouldn't do it. These people are different. More often than not, they are of such strong convictions they become abrasive. It's not that they're not likable people. It's just that First Amendment law is made by people who are gadflies. So once she'd

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<sup>167</sup> Jan Kemp, interview by author, tape recording, Athens, GA, 22 November 2006.

<sup>168</sup> Kemp v. Ervin, 251 F. Supp. 495, (US District, 1986), Transcript from February 5, 1986, p. 4194.

decided it was a matter of principle, she was going to defend her position, the consequences be damned.<sup>169</sup>

In a 2006 interview with Henry, he described Kemp as a tragic figure and described the entire situation as Shakespearean. He saw the administrators as having gotten so involved that they eventually had to fall and Kemp became consumed by the limelight. Henry said there were at least seven or eight other people that could have come forward and filed suit and challenged the administration. However, only Kemp pursued it. He attributes Kemp's persistence to fitting the bill of a whistleblower.

But everybody but Jan decided to move on, get on with their life. She's really an unusual person. You've got nine persons that could be whistle blowers, I'm just pickin that number, it was probably 7 or 8. But one of them does it and the others don't. What's the difference?<sup>170</sup>

The difference between Kemp and the others may be that the others did not want to endure the emotional and psychological burdens that Kemp faced as a whistleblower. Kemp faced a tremendous amount of pressure from a variety of areas. A member of the athletic department told her that letters were being solicited that made claims that she was a prostitute and stripped in class.<sup>171</sup> Kemp was pregnant at the time she was demoted and faced the thought of having her contract dropped from 12 months to 9 months. During her deposition, she admitted that she was seeing a psychologist to help deal with the stress.<sup>172</sup> Kemp faced criticism and fought her own depression that she says was a result of the events that led up to her demotion and the trial that followed. In an unpublished autobiography, Kemp described in one night where she attempted suicide. That night she

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<sup>169</sup> Logan Mabe, Jan of Arc. *Atlanta Magazine*. February 1991. Thomas G. Casey, Publisher, p.104.

<sup>170</sup> Hue Henry, interview by author, tape recording, Athens, GA, 1 November 2006, p. 3.

<sup>171</sup> Kemp v. Ervin, 651 F. Supp. 495, (US District, 1986), Deposition of Jan Kemp on July 7, 1982, p. 20.

<sup>172</sup> Ibid. p. 35.

stabbed herself and tried to cut her wrists, but the blade hit bone and never severed a major artery. She wrote,

Totally unconscious of any pain, I couldn't help analyzing the events that had led me to this point of total despair. I couldn't organize the thoughts as they rushed through my fatigued mind. There was the first grade changing incident and then the nasty phone call from one of my students. I winced as I recalled his angry, profane words. There was the illegal exiting of the nine athletes who had not earned their passage from remedial courses into the University's regular curriculum. There was the protest letter I had written over this latter incident that had seemed inspired from above. It had virtually written itself. But there had begun the systematic harassment of colleagues who had supported me- of Annie Ritter, of Art Stanley, of Bert Smith. Tears began to stream down my face. I needed to sob openly but hadn't the energy. Thank you for the tears, Lord, I prayed. Bless your holy name.<sup>173</sup>

In the chapter, she told the story of a second suicide attempt, this time by pills. She described how her second stay at a psychiatric hospital helped her to battle depression and realize that she could not escape her situation, but had to fight through it. At the end of the chapter, Kemp told how she met with Pat Nelson to officially write out her complaint and file the lawsuit. Kemp recalled, "I was thrilled that I was able to laugh with him, but more thrilled that I was able to reclaim the courage that had filled me when I first realized that I had to battle the corruption that pervaded the University of Georgia campus."<sup>174</sup>

Kemp's personal struggles were not her only concerns outside the scope of the trial. Kemp received hate mail, was taunted by passersby, and went through a difficult divorce. Kemp continued to persist despite these external pressures. During a 2006 interview, Kemp told a story of person who recognized her and almost wrecked her car. When asked how she thought the trial had affected students, she responded,

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<sup>173</sup> Jan Kemp, an autobiography, (unpublished and held by author), 5.

<sup>174</sup> Ibid. p. 33.

Well, it's interesting, because it was right after the trial and I was driving somewhere to get something to eat and this woman tried to wreck me. She rolled the window down and said, you're the one who is ruining UGA. I said, well I'll stop tomorrow. She said, you're a smart ass.<sup>175</sup>

She received very few signed letters, but received one in 1989, three years after the verdict, from a lawyer. The letter claimed that Kemp was a "disaffected person," "discordant," and a "schizoid." The letter made the following statement about Kemp:

So, why don't you go somewhere where your personality fits in; there are plenty of losers to choose from? I consider you to be a despicable person from you record. Only you know what your game is. However, you are a pathetic person whom I pity.<sup>176</sup>

Kemp did receive some praise as well. A number of articles about the case written by reporters around the country sent notes with clippings from their paper telling Hue Henry what a great job they did with the case. Kemp gave an example of a positive experience in Athens after the trial. "You know, not long ago I was walking to get to this child who was with her mother. You know who this is, it was Jan Kemp. She was so thrilled that I had done that."<sup>177</sup>

Kemp's lawyer, Hue Henry sympathized with her plight and situation. He regarded her as a prototype whistleblower and recognized the difficulties that came with being one.

I think she is just really a tragic figure. I think the whole episode is Shakespearean. The esteem of power and you get too big involved you fall. On their side. And then on her side, she got so popular and well known that the person to become obscure it is very hard to handle that. I think she was a tragic figure. She became so well known. She did the whole thing where she went to jail because she had violated her custody order with the divorce. As I saw all that develop. Maybe because I am a theatre person. But other people were saying that

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<sup>175</sup> Jan Kemp, interview by author, tape recording, Athens, GA, 22 November 2006, p. 5.

<sup>176</sup> Anonymous author, Letter to Jan Kemp, May 29, 1989.

<sup>177</sup> Jan Kemp, interview by author, tape recording, Athens, GA, 22 November 2006, p. 6.

this was a tragedy of Shakespearean dimension. Talking about the university and so forth and I think she was a character.<sup>178</sup>

Kemp needed persistence and focus to continue to pursue her lawsuit. The entire process took over three years and at anytime, she could have stopped. Kemp did determine that there are things she wished she had done differently. The example she gave, spoke directly to her daily function as a person:

The only thing I can say that blessed me was this. As grueling as it was, if I was ever in a situation like that, I would have to make rules for myself. You have to eat. You have to sleep and you have to care. And that's it. Because others aren't going to care for you unless you let them know.<sup>179</sup>

At the time, Pat Nelson served as Kemp's lawyer and associating Hue Henry, they decided it was important to make it a federal case upon Henry's recommendation. Henry stated,

He came and got me because of the university litigation and plus the case was originally in the state court, you remember that, and I had a lot of federal experience because of my clerkship and as a public defender. Pat knew that and was bumping into some resistance and called me and asked me what I thought should be done and I recommended to get it to Federal court and get it out of state court, get it out of Athens. That's how I got involved.<sup>180</sup>

The case was moved to Atlanta and heard by Horace T. Ward. Ward had a unique connection to the University of Georgia. He was the first African-American to challenge racially discriminatory admissions policies at the University of Georgia, in 1950.<sup>181</sup> The university's lawyer in the Kemp case, Hale Almand, argued successfully to have the Board of Regents removed as a defendant in the case. However, Ward determined that the case should stay in his court and in Atlanta. This meant that the jury for the case

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<sup>178</sup> Hue Henry, interview by author, tape recording, Athens, GA, 1 November 2006., p. 2.

<sup>179</sup> Jan Kemp, interview by author, tape recording, Athens, GA, 22 November 2006, p. 9.

<sup>180</sup> Hue Henry, interview by author, tape recording, Athens, GA, 1 November 2006, p. 5.

<sup>181</sup> R. A. Pratt, *We Shall Not Be Moved: The Desegregation of the University of Georgia* (University of Georgia Press, 2002).- Ward applied to the University of Georgia Law School and was denied admissions. He pursued the university through a lawsuit, but it was dismissed because Ward was attending Northwestern University's law school in the meantime.

would be pulled from Atlanta and not Athens, GA. Ward's decision to keep the case in Federal court was for two main reasons. First, as Ward stated, "A defense of improper venue is a personal privilege accorded a defendant. Being a privilege, it can be insisted upon or it may be lost."<sup>182</sup> Second, since the pretrial work and pending motions had gone on for two years and they had worked through discussion over the use of student grades and information that was protected by the Federal Educational Right to Privacy Act (FERPA), Ward determined that "the defendants have not shown that it would be in the interest of justice to transfer this case at so late a stage in the proceedings."<sup>183</sup> The original trial date had been set for August 12, 1985, but after the Board of Regents was determined to no longer be a valid defendant, the trial was set for January, 1986. The trial lasted for five weeks and on February 12, 1986, the jury found Leroy Ervin and Virginia Trotter guilty on all counts for knowingly and willfully violating Jan Kemp's rights to free speech. The jury rendered the following damages in favor of Kemp.

Compensatory damages of \$79,680.95  
 Mental distress of \$200,000  
 Loss of Professional Reputation of \$1  
 Punitive damages of \$2,300,000<sup>184</sup>

#### Responses After the Trial

The Jan Kemp trial created negative publicity for the university. Some people viewed the trial as a catalyst for uncovering the dark side of college football. This is evident in articles written in local and national publications. Within the public relations and alumni association at the university, people were concerned about the negative publicity the trial had created.

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<sup>182</sup> Kemp v. Board of Regents, et al., August 26, 1985. p. 7.

<sup>183</sup> Ibid. p. 9.

<sup>184</sup> Kemp v. Ervin, 651 F. Supp. 495 (US District, 1986), Transcript from February 12, 1986, p. 4688.

As an example, on April 24, 1986, the university sponsored a Loyalty Day Rally in Atlanta. The event included concerts, speeches, and free refreshments all in an effort to bring supporters of the University of Georgia together to show support for the school despite the negative publicity. Trummie Patrick, the coordinator of the event described the event in an article for the UGA Columns magazine: “This effort is intended to demonstrate solidarity and support for the University of Georgia in light of recent negative publicity the school has received.”<sup>185</sup> The event tried to bring focus to the academic and non-athletic prowess of the university. The organizers of the event attempted to promote the university as “an international reputation as a leader in the field of biotechnology research and its faculty in plant molecular biology is considered one of the best anywhere.”<sup>186</sup>

Whether intentional or not, the public message put forward by the university was that the institution was bigger than college football and its priorities were truly academic in nature. While this rhetoric was rarely used in mainstream media such as local and regional newspapers, it seems evident that effort was made by the institution to assure the faculty at the university that the priorities of the institution concerned the academic mission and the role of the faculty in its governance.

The negative public image created by the scandals was also seen through student responses in the newspaper. A student who worked as a tutor spoke about the pressures in Developmental Studies. “I know that exiting (over teacher’s advice) did happen although none that I worked with. There is pressure from over the teacher’s head. The

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<sup>185</sup> “Rally to bring out the best,” UGA Columns, Volume 13, num 27, April 21, 1986, 1.

<sup>186</sup> Ibid.



teacher feels the student should not be exited, and then someone says pass the kid.”<sup>187</sup> In a letter to the editor, a freshman student questioned the institution’s priorities and the priorities of colleges across the country. “Colleges and universities in the United States need to re-evaluate the areas where they spend their scholarship money; especially in the area of athletics. Is it really more important to send a promising athlete to school, or a promising student?”<sup>188</sup> During the trial, an editorial in the student newspaper read, “Clean it up.” The editorial criticized the university based on the Hale Almand’s comments during the trial about athletes. “The insulting part came when Mr. Almand admitted Tuesday that athletes have received preferential treatment in remedial courses. He said some athletes come to the university unable to read and write. “Bring out the violins, but don’t expect us to reach for a hanky to wipe away tears with.”<sup>189</sup>

Student editorials appeared in the student newspaper throughout the trial. Tommy Sims, former editor of the *Red and Black* stated in an opinion article, “What we are beginning to see now is that there is without a doubt two groups of athletes at Georgia. The academic-athlete and the non-academic athlete. The latter group doesn’t fit in with college and college athletics are all about.”<sup>190</sup> Student response for the most part was outrage. They formed organizations such as Students Against Campus Corruption.<sup>191</sup> Student opinions were overwhelmingly in favor of cleaning up the athletic scandals. It never happened, but one of the sequences written in a movie script based on the Jan Kemp trial included a scene with a student holding a sign that said, “Let the Big Dawg

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<sup>187</sup> Charles Odum, “Developmental Studies Under Fire,” *The Red and Black*, March 2, 1983. Vol. 90, no. 72, 3.

<sup>188</sup> Michael Lurker, Editorial, *The Red and Black*, Feb. 20, 1985, 4.

<sup>189</sup> Tommy Sims, “Clean it up,” *Red and Black*, Jan. 10, 1986, 3.

<sup>190</sup> Tommy Sims, “The role of the student athlete,” *The Red and Black*, January 16, 1986, 4.

<sup>191</sup> Carlton Haggard, Students against campus corruption charter written on January 27, 1986. Part of collection of materials from Hue Henry’s legal files related to the Jan Kemp trial.

Read! Thanks Jan Kemp!”<sup>192</sup> Jan Kemp never attended a football game again to see signs like this, but she did find that many of the students at the university supported her cause.

### The Faculty’s Response to the Jan Kemp Trial

An analysis of the University of Georgia Columns magazine and additional newspaper editorials presented evidence of the faculty reaction to the Jan Kemp trial at the University of Georgia. During the months and years following the case, the faculty became heavily engaged in redefining the role of faculty members in the governance of the university and in particular, athletics. Support for this movement seemed to come from a change in leadership at the presidential level.

Following the trial, Davison resigned as president of the university. The Board of Regents then announced that Dr. Henry Stanford would become interim president of the University of Georgia. Stanford described the purpose of a university as “a critic, a prophet, and a conscience of society.”<sup>193</sup> Stanford’s job was to assist in improving the public image of the University of Georgia and assessing the current administrative structure of the institution. Stanford claimed he was a “self-appointed evangelist.”<sup>194</sup> He gave approximately 181 speeches around the state of Georgia in an effort to improve the university’s public image. Stanford highlighted two goals as being prominent in his role as interim president. First, Stanford wanted to “study decision-making on campus, particularly the faculty’s role in the process.”<sup>195</sup> Second, he planned “to begin a long-

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<sup>192</sup> Cynthia Whitcomb, Slaves of Ignorance: The Jan Kemp Story, (CBS Television, September 14, 1987), Second Draft. Script of made for television movie that was never produced or aired on CBS-TV.

<sup>193</sup> “Stanford named interim President,” UGA Columns, vol. 13, num 29, 1.

<sup>194</sup> <http://www.uga.edu/gm/1299/CentTime.html>

<sup>195</sup> Ibid.

range planning process to determine where we expect to be in 10 years.”<sup>196</sup> Following a similar message as put forward by the public relations office about the UGA Loyalty Day, Dr. Stanford stated that “it’s time to focus on the achievements of the university, and move away from its mistakes, if there are any.”<sup>197</sup> Stanford’s statement was very strategic in an attempt to appease both sides. He assumed and recognized that mistakes are made, even in a general sense which is a line of rhetoric that played out in the media and within the faculty ranks.

In an effort to ensure mistakes were not made on his watch and probably to appease the faculty and critics of the university, Stanford appointed Dr. Boyd McWhorter to be an athletic consultant. McWhorter was a former English professor at the University of Georgia and had recently left the post of athletic commissioner for the Southeastern Conference. Stanford’s reasoning for hiring an athletic consultant was to have someone serve as the coordinator of all academic activities related to athletes. In this role, McWhorter monitored the admissions process and academic progress of athletes. Compliance with the SEC and the NCAA and serving as a liaison between academics and athletics were two primary components of McWhorter’s role. Stanford used the analogy of a certified public accountant report to explain McWhorter’s role in the structure. “He will serve as an independent academic auditor, reporting directly to me as an independent certified public accountant reports on financial activities directly to the chief executive of an organization.”<sup>198</sup> Stanford went on to say that hiring McWhorter was intended to make sure that administrators were fair and equitable when it came to addressing the needs of student athletes in the academic realm. In his State of the University Address, Stanford

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<sup>196</sup> Ibid.

<sup>197</sup> Ibid.

<sup>198</sup> “Athletic Consultant Appointed,” UGA Columns, vol. 13, num 34, June, 16, 1986, 1 & 3.

used every opportunity to convince the faculty and critics that the University of Georgia was more than college football. Stanford set up an environment in which the faculty and administrators would debate over the future of the university. In his address he described the Jan Kemp trial as,

A Greek drama as I sat in front of my fireplace in Americus, GA. The chorus singing into my mind's ears about the fate the Gods had willed for the actors, seemingly puppets pulled by a string held in the hands of a deus or several dei ex machine. Little did I realize that one of these strings was attached to me.<sup>199</sup>

Stanford also used the analogy of a laboratory rat to demonstrate the stress the institution faced as a result of the Jan Kemp trial. "Like the laboratory rat, the university was under the extreme stress of different experiments and external pressures. These stresses create conflict inside the rat's body and similarly the university faces a conflict within itself as a result of these stressors."<sup>200</sup> In a plea to the faculty and the university community, Stanford wanted to see the university overcome this stress.

Stanford viewed the Jan Kemp trial as an opportunity to re-emphasize the academic mission of the institution. He continued to make his plea to the faculty and ensure the academic integrity of the university with the following statement,

I have wondered how in American education, it has developed that the prestige of a professor is in inverse ratio to the number of hours he, or she teaches. I have an axiom that I place alongside this one: Prestige varies directly with the level of students he teach. The higher the level, the more prestige; the lower, the less prestige.<sup>201</sup>

However, Stanford did not offer unconditional support to the faculty. During the months leading up to Stanford becoming the interim president, the faculty formed an ad hoc committee within the University Council and completed a study of the governance and

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<sup>199</sup> "State of the University address," UGA Columns, volume 14, num 5, October 13, 1986, 1.

<sup>200</sup> Ibid, 1.

<sup>201</sup> Ibid., 2.

operation of the university. The University Council was then and currently is the faculty governance organization for the University of Georgia. The committee created a report with recommendations to Dr. Stanford concerning the governance and operations of the university. In his address, Stanford gave an overall response to the recommendations of the ad hoc committee. Stanford stated, “even though I do not agree with all the recommendations for change, I am eager for the report to have the widest possible review.” He continued to say that “reasonable people can disagree and still be respectful of contrary notions when they are rooted in sincere conviction.”<sup>202</sup> Analyzing the report of the ad hoc committee on academic policies and Stanford’s responses to their recommendations offers insight into where Stanford fell along the continuum between the academic mission and the support of intercollegiate athletics.

In January of 1986, the University Council created an ad hoc committee to study “the various issues engendered by the Kemp case and to make such recommendations as it deems appropriate. The committee members were tenured members with no administrative duties.”<sup>203</sup> Thus, the Kemp case was a catalyst for change with the University Council and the faculty’s role in the governance of the university. In the committee’s report to the University Council, they stated first that the statutes and bylaws of the university and the University Council needed to be updated since they had not been changed since 1973, a span of 13 years.

The ad hoc committee identified problems with the University Council that in its opinion excluded the faculty from being prominently involved in the decision making of

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<sup>202</sup> Ibid.

<sup>203</sup> “Report of Ad Hoc Committee of the University Council, UGA Columns, volume 14, num 4, March, 1986, 3-5.

the institution. The committee formed the following list of problems with the University Council and a statement of its concerns.

1. The number of administrators on the Council;
2. The climate of decision-making in which the faculty does not feel free to speak openly about matters of concern;
3. The fact that the presiding officer of the Council is the President of the University rather than a faculty member without administrative assignment;
4. The structure and functioning of the Executive Committee (to the University Council);
5. The number of administrators who serve as chairs of key Council committees;
6. The number of administrators who are on key committees and in some instances dominate the committee;
7. The absence of reference in the Statutes and Bylaws to the faculty's role with regard to the governance of the athletic program and the absence of reference to the relationship between the University and the Athletic Association.<sup>204</sup>

The committee's concerns raised two major questions, why were administrators allowed to have overwhelming control over the governance of the institution, and why was the role of the faculty minimal and undefined? The following statement along with the list of problems summarized the focus of the committee.

Over the years the University Council has evolved to a point that it has lost the respect and confidence of the faculty as a legitimate format for faculty governance, as the recent poll of faculty opinion concerning the Council clearly indicated. Part of this is due to the problems mentioned above, but part may be due to the method by which items must be screened through the Executive Committee to get on the agenda of a meeting for discussion. Several members of the Committee who have served on the Executive Committee think this is a major roadblock to effective faculty involvement in the University Council.<sup>205</sup>

The committee believed that the current structure of the University Council did not allow for enough checks and balances, especially in regard to the relationship between the university and the athletic association. For example, the University Council had a Committee on Intercollegiate Athletics. The Chair of this committee was appointed by the president who also served as an ex-officio member of the Athletic Association Board.

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<sup>204</sup> Ibid., 3.

<sup>205</sup> Ibid., 3.

The faculty members on this committee believed this gave the president too much control and did not allow for the faculty to choose their representative in matters pertaining to athletics.

The committee also produced recommendations related to admissions, Developmental Studies, and athletics. The committee addressed the admission standards of athletes, the private status of the athletic association, and some requests for reform.<sup>206</sup> In regard to admissions, the committee believed that “NCAA regulations should play no part in the admissions process at the University of Georgia.”<sup>207</sup> They continued to challenge the decisions of administrators, saying that “by admitting athletes who are not capable of coping with the University’s regular academic program, the University has done a disservice to the students involved and has compromised its integrity.”<sup>208</sup>

In regard to athletics, the committee had great concerns about the private status of the Athletic Association. It pointed out that since the Athletic Association was a separate corporation it did not have the same legal liability as state institutions. A powerful example of this situation was that the Athletic Association was not subject to a state audit.<sup>209</sup> Since state law did not allow athletic associations to use state funds, they became managed more like a business than as part of an academic enterprise. To the committee, this created a problem because,

Athletic considerations can therefore be kept separate from academic considerations. Nevertheless, despite the fiscal convenience of having a self-supporting Athletic Association, many members of the University committee, including a majority of the members of the committee, think that the Athletic Association should no longer be a private corporation.<sup>210</sup>

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<sup>206</sup> Ibid., 5.

<sup>207</sup> Ibid., 4.

<sup>208</sup> Ibid., 4.

<sup>209</sup> Ibid., 5.

<sup>210</sup> Ibid., 5.

The faculty's concerns about the Athletic Association being a private entity were echoed by UGA historian, Thomas Dyer. The faculty in the University Council recommended that the Board of Regents do everything in its power to move the Athletic Association back under the umbrella of the university's governance structure. Their argument for reverting back was that at the time only 6 or 7 other schools in the country had Athletic Associations that were separate entities. The ad hoc committee also argued that the legal separation of the Athletic Association from the university implied that intercollegiate athletics is different from other university activities. The committee also implied that since the Athletic Association was a private entity, it could operate in secret unlike the university which was required to have open records concerning all of its business. The ad hoc committee also offered solutions or additional recommendations to these problems.

First, it felt that if the Athletic Association was to remain legally separate from the institution, it should at least open its records for view by the public due to the nature of its connection to the University of Georgia. Second, they proposed that the number of faculty members serving on the Athletic Association board should increase and the number of alumni on the board should decrease. Third, it recommended that the assignment of football tickets primarily based on donations to athletics be changed to account for giving to the university as a whole. Fourth, the committee requested that the president, the athletic director, and the faculty chair for athletics work to lobby the NCAA to prohibit freshmen from participating in intercollegiate athletics.<sup>211</sup> This is a similar argument made by college football scholars like John Sayle Watterson and John Thelin. Last, the committee recommended that the use of Sanford Stadium, the football

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<sup>211</sup> Ibid., 5.



stadium, be shared by more than just the Athletic Association. At the time, the stadium was only used for football games and graduation. To make their point, the committee argued, “it is questionable whether such a valuable institutional resource in the center of the campus should be inaccessible to the University Community some 358 days of the year.”<sup>212</sup>

Today, the stadium still sits in the middle of campus and is only accessible for football games and graduation. During graduation ceremonies held in the stadium, no one is allowed on the field.

Following the University Council’s modification and approval of the ad hoc committee’s recommendations, interim President Henry King Stanford responded to them. In general, Stanford supported the recommendations and made few changes. However, Stanford did not take a firm stand in favor of many of the Council’s recommendations concerning athletics. For example, one of the Council’s recommendations stated, “NCAA regulations shall play no part in the admissions process at the University of Georgia.”<sup>213</sup> Stanford did not wholly support the recommendation, but instead stated that he “interpreted the spirit of this recommendation to be that all athletes shall meet the established admissions standards for regularly admitted students.”<sup>214</sup> Stanford stated that he agreed with the spirit of the recommendation, but never committed to officially approving it. Stanford argued that the admissions committee and the President have authority over admissions and he did not want to usurp that authority. Stanford managed to stay neutral throughout the transition period. However, being neutral meant he also did not lean towards supporting the athletic department more than the academic

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<sup>212</sup> Ibid., 5.

<sup>213</sup> Stanford answers council’s recommendations, UGA Columns, vol. 14, num. 6, January 26, 1987.

<sup>214</sup> Ibid.

departments. Dr. Bruce Shutt, the University Registrar during this time period wrote in an article he published concerning the case that shortly after the trial, “a new Acting President, Dr. Henry King Stanford, was appointed. From the day he took office, there were no successful appeals from the Athletic Department to the President regarding eligibility of athletes.”<sup>215</sup> Stanford’s impact was felt because he did not take a hard line in either direction. He instead allowed the faculty to become more engaged in the governance of the university and kept the athletic department’s influence from stopping the momentum gained from a change in regime. Additionally, Stanford’s successor, Charles Knapp stated that “the faculty will have primary responsibility for decisions involving admissions, academic standards and promotion and tenure policy. I will be involved, but the executive authority rests with the faculty.”<sup>216</sup>

Before the Jan Kemp trial, the faculty’s perspective was that they were kept out of the governance structure of the University. The trial resulted in the resignation of President Davison and made athletic scandal a point of concern for the University. In response to these issues, the faculty began to recommend changes through the University Council. At the same time, an interim president, Dr. Henry King Stanford, focused on bringing a sense of calm and creating an environment that was more a true marketplace of ideas. The Kemp trial opened the door for the University to hire a new president who was committed to including faculty in the governance structure and maintaining a collegial environment. Knapp’s view of governance was, “we have to decide together

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<sup>215</sup> Bruce Shutt, “The Fallout from the Jan Kemp Case.” College and University. (American Association of Collegiate Registrars and Admissions Officers, Vol. 64, num. 1, 1988). p. 79.

<sup>216</sup> “Charles Knapp is named U.GA’s 19<sup>th</sup> President,” UGA Columns, vol. 14, num. 18, February 9, 1987.

what our future is going to be. . . I don't want anyone to say that important decisions were reached in secret.”<sup>217</sup>

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<sup>217</sup> Ibid.

## CHAPTER 5

### CONCLUSION, IMPLICATIONS, & RECOMMENDATIONS

At the first intercollegiate football game between Rutgers and Princeton in 1869, a Rutgers professor supposedly yelled at the participants, “You will come to no Christian end!”<sup>218</sup> This challenge and outcry from faculty members is representative of the clash between academic supporters and athletic boosters that has become a permanent part of the university structure and culture. For universities with revenue-producing football programs, this clash has seen students, faculty members, administrators, and alumni and alumnae get caught in a cross-fire. The impact of the events surrounding the Jan Kemp trial on the people involved demonstrated this metaphor. The University of Georgia became one in a list of many universities that fed their desire for increased revenue, athletic success, and public prestige. Without concern for the impact it had on some of those involved, the clash between athletics and academics left a trail of resignations, psychological trauma, and illiterate athletes at the University of Georgia. Studying the events surrounding the Jan Kemp trial provided a localized and personal look at how the increased commercialization of athletics and an unwillingness to exert presidential power and control over athletics led to the evolution of a system built on corruption and greed. Analysis of the impact of the Jan Kemp trial identified a clear set of circumstances that created an environment at the University of Georgia where the promulgation of college football superseded the academic mission.

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<sup>218</sup> Rutgers Athletic Communications, “Rutgers-the birthplace of intercollegiate football,” found at <http://www.scarletknights.com/football/history/first-game.asp>,

Analysis of the literature identified themes from the most renowned reform efforts in intercollegiate athletics, the Carnegie Report of 1929 and the Knight Commission of 1989. These reports identified presidential control, commercialization of athletics, and corruption of the student-athlete ideal through preferential treatment.<sup>219</sup> The themes that emerged from the Carnegie Report of 1929 are points of concern in the decision making of administrators at University of Georgia. Fifty years after the Carnegie Report, commercialization of athletics at the university and an unwillingness to challenge this goal led to a lack of appropriate presidential control by then president, Fred Davison. Therefore, the preferential treatment of athletes persisted despite the efforts of some faculty members and administrators to change the system. The system uncovered during the Jan Kemp trial is similar to the events and activities described in the literature. Robert Hutchins' decision to abolish football at the University of Chicago in the 1930s was the only significant instance where a university president chose academic standards over athletic prowess. Unlike Hutchins, President Davison supported the use of college football as a means to increase institutional prestige and commercialization at the expense of academic integrity. The focus on the commercialization of college football at the University of Georgia led to numerous instances of preferential treatment uncovered during the Jan Kemp trial. The persistence of preferential treatment without any challenge from the president put faculty members and lower ranked administrators in the middle of a maelstrom of power and politics.

#### Commercialization of College Football

As discussed earlier, the influence of Walter Camp led to college football becoming more entrepreneurial and business-like. In the 1880s at Yale, Camp

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<sup>219</sup> J. Thelin, Games Colleges Play, 197.

recognized the revenue generating possibilities of college football and created a structure that took the control of athletics away from students and put it into the hands of alumni and administrators. Other schools followed the example of Walter Camp and Yale as they created their football programs. The formula for success was to start a football team, travel to play prestigious teams like Yale, Princeton, and Harvard in exchange for a large sum of money, and use the exposure from the football team to increase enrollment. Like other institutions, the University of Georgia modeled its program after Camp's program at Yale, even to the point of adopting the same mascot.

The University of Georgia modeled its campus after Yale and even adopted the same mascot. The University of Georgia also developed a commonality with Yale by using athletics to promote the institution and increase enrollment. The creation of the University of Georgia Athletic Association as a private entity in 1929 coincided with the building of Sanford stadium and UGA's first win over Yale.

The establishment of the athletic association as a private entity allowed the football program to operate outside the umbrella of the university and focus on the development of the program and revenue generation without the control or input of the university. This structure eventually created an adversarial relationship and power struggle between athletics, the faculty, and top administrators at the university. The desire to increase revenue and increase athletic prestige created a tremendous amount of pressure which led to the lowering of admissions standards and preferential treatment of athletes. Tom Dyer, John Thelin, and Hue Henry all looked at the privatization of the athletic association at the University of Georgia as a major turning point that established the commercial importance of football to the University of Georgia. Becoming a private entity allowed

the football program and its personnel to work outside the control and confines of the university. The athletic association was then empowered to bring in as much revenue as possible to increase its chances of fielding a winning team. The educational justification for this in 1929 was to expose the university to more prospective students and bring in prominent faculty members. In the 1980s, there was no reason to justify the separation. It was just considered a part of the system. The justification for increased profile of college football was simply to increase revenue.

Generating revenue was at the core of many of the decisions made where academic integrity was overlooked for the sake of athletic prowess. In the faculty meeting that was secretly taped by Theresa Timmons, Leroy Ervin stated his view on the true relationship that athletes had with the university:

I know for a fact these kids would not be here if it were not for their utility to the institution. There is no real sound academic reason for their being here other than to be utilized to produce income.<sup>220</sup>

The NCAA lowered the entrance requirements for athletes and UGA adjusted its standards to meet the NCAA standards. Some athletes came to the university and could not read or write. If not for their athletic ability, they would not be attending the university. There is historical evidence that supports this type of preferential treatment. In the book, The Chosen: The Hidden History of Admission and Exclusion at Harvard, Yale, and Princeton, Jerome Karabel discusses the reasons for preferential admissions given by a past Dean of Admissions at Harvard, Wilbur Bender:

The decisions made by Wilbur Bender described athletic ability as more than a tie-breaker; instead it was a decided plus factor. According to Bender, to be sure, Harvard would not admit a man, no matter how great a football player he may be,

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<sup>220</sup> Teresa Timmons, audiotape recording of faculty meeting in the Developmental Studies Program, Fall 1983.

unless he is intellectually qualified and sound of character. That said, the underlying message strongly supported athletes and athletics; Harvard, Bender maintained, would be a poor place without football and had no intention of going the way of Chicago.<sup>221</sup>

When Bender speaks of Chicago, he is referring the University of Chicago's decision to abolish football in the 1930s.

The pressure on the faculty to help athletes maintain eligibility led to faculty members creating additional interventions because many of the athletes were at an academic level that made it seem impossible for them to ever graduate. In the same meeting taped by Timmons, one faculty member tried to explain that the athletes being admitted were at such a low academic level that they might never graduate. However, the expectation of Virginia Trotter, the Vice-President for Academic Affairs, was that once admitted, the university and specifically the Developmental Studies program had an obligation to help the athletes. In a faculty meeting, Trotter said,

Once we admit them, I feel we have some responsibility towards them even though, I mean, if they're making progress. And if uh, if they are, and even if they're not going to graduate, and I think we are really talking through our hats if we think these students are going to graduate, but they could be a lot better off as a citizen, having been through our program.<sup>222</sup>

The faculty members in Developmental Studies were told by their supervisor and the chief academic officer that these athletes were never really expected to graduate, but were going to be there nonetheless. Later in the meeting, Trotter made it clear by saying, "As long as they meet the NCAA standards, we're going to take them. I mean, that is just a

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<sup>221</sup> Jerome Karabel, *The Chosen: The Hidden History of Admission and Exclusion at Harvard, Yale, and Princeton*, (New York: Houghton Mifflin, 2005). P. 186.

<sup>222</sup> Teresa Timmons, audiotape recording of faculty meeting in the Developmental Studies Program, Fall 1983.



fact of life.”<sup>223</sup> At this point, it is clear that the chief administrators responsible for the academic mission of the University of Georgia determined that for the sake of revenue producing athletics, they allowed the NCAA to determine the standards for their institution. With the decision made by Trotter, the faculty members had very little options other than to conform, leave, or find a way to challenge the system.

In the media and during testimony, President Davison repeatedly defended the University of Georgia’s reasons for admitting athletes below the set standards. He also repeatedly stated that if any special treatment was given, that he did not know about it. In contrast, Dr. Trotter stated in interviews with Board of Regents auditors that President Davison made it clear to her directly or indirectly that they should support admitting athletes below the established standards. Trotter recounted a conversation she had with President Davison where the president stated that “if we’re going to compete we have to, you know, go with the NCAA standards, and, that we have to find a way to, you know, we need to find a way to deal with this.”<sup>224</sup> Leroy Ervin also stated that he felt he didn’t have a choice. When interviewed by the Board of Regents during its audit of Developmental Studies after the trial, Leroy Ervin reiterated a statement he had made during the trial, “it is nothing new to say that these kids were only at the University- only for their ability to win games and produce income- I’ll say that over and over and over again.”<sup>225</sup> The pressure from the athletic department coupled with the president’s unwillingness to challenge the football program led to the continuation of athletes

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<sup>223</sup> Teresa Timmons, audiotape recording of faculty meeting in the Developmental Studies Program, Fall 1983.

<sup>224</sup> V. Trotter, Interview by Ray Cleere for the Developmental Studies Audit of the University of Georgia, March 5, 1986, 20.

<sup>225</sup> L. Ervin, Interview by Ray Cleere for the Developmental Studies Audit of the University of Georgia, March 5, 1986, 8.

receiving preferential treatment. Trotter and Ervin believed that the president was in full support of preferential treatment and that regardless of the policies, the athletic programs needed to keep whatever players necessary to maintain a winning edge. The plight of these administrators demonstrated the importance of the president in decisions involving big-time college athletics as presented by the Carnegie Report and the Knight Commission.

The concern that losing on the field might lead to a loss of revenue created a corrupt system of inadequate checks and balances. The Developmental Studies program was isolated from the rest of the academic community on campus. The large influx of influence and money the athletic association funneled into the Developmental Studies program meant that decisions made in the program at times were based on the needs of the athletic program. Nor did academic administrators sustain the academic mission of the University.

### Presidential Control

The two major reform efforts studied in this dissertation identified the president as the key catalyst for change and for upholding the academic integrity of the institution. These reform efforts have recognized that the presidents have tried to take a step back and allow the athletics programs to develop their systems and policies outside the university's umbrella of control. The Carnegie Report of 1929 made the following statement,

“many university or college presidents have left the shaping of athletic policies to conferences, committees, or specialists in physical education, who represent not so much the welfare of the institution and its undergraduates as special interests of one sort or another, all of which apparently feel that material prosperity, their own

prestige, or professional standing must be served before other ends can be considered.”<sup>226</sup>

According to the reform efforts, the president of the university has to take control of athletics in the same way they should take control of the academic and fiscal operations of the institution. The Knight Commission report in 1991 argued,

Presidents are accountable for the major elements in the university’s life. The burden of leadership falls on them for the conduct of the institution, whether in the classroom or on the playing field. The president cannot be a figurehead whose leadership applies elsewhere in the university but not in the athletics department.<sup>227</sup>

These two major reform efforts established the argument that the president of the university must be actively involved in keeping the academic mission the main priority for the university. The president must do this in spite of the pressure that comes from being involved in revenue producing athletics like football or the public and media pressure that puts athletic prestige ahead of academic integrity.

The Jan Kemp trial challenged the role of President Davison and gave insights into the pressure faced by presidents at universities with revenue-producing football programs. Additionally, the trial showed how these pressures affected the way Davison saw the role of college football at the university.

Previous reform efforts, including the Knight Commission’s current efforts, involve presidential control as a key component to maintaining a balance and protecting academic integrity. However, this focus puts an extremely dangerous burden on any one

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<sup>226</sup> Howard Savage as quoted in Thelin, J. p. 31 (Carnegie Report) Howard J. Savage, with Harold W. Bentley, John T. McGovern, and Dean F. Smiley, M.D., American College Athletics, Bulletin Number Twenty-three, New York: Carnegie Foundation for the Advancement of Teaching, 1929. Pp. 80-83.

<sup>227</sup> Report of the Knight Foundation Commission on Intercollegiate Athletics, Keeping Faith with the Student-Athlete: A New Model for Intercollegiate Athletics, by William C. Friday and Theodore M. Hesburgh, (John S. and James L. Knight Foundation: March 1991), 26.

person who is willing to challenge and look beyond the tremendous external pressure provided by revenue producing sports like football. Under these recommendations for reform, the University of Georgia under Fred Davison's leadership did little to change the system and preferential treatment of athletes continued to persist at the institution. President Davison was extremely involved in college football at the national and local level. However, while he touted standards and reform within the national policy making circles, the policies and practice at his own institution were antithetical to these reform efforts.

Admitting athletes into Developmental Studies who functioned academically at a level below the average at the University of Georgia and additionally feeling the pressure to exit these students or extend their time in Developmental Studies created a situation where other forms of preferential treatment occurred. President Davison said he knew nothing about athletes being exited without the proper grades. During the trial, Davison pointed to his involvement in the development of Proposition 48 as proof that the university was focused on increasing the standards.

President Davison wanted to see the NCAA raise the academic standards for athletes, but he did not want UGA to lead that charge. He only wanted to raise the university's standards if competing universities raised their standards. When faced with the intersection of giving athletes preferential treatment or not, UGA's reason was clear. Athletes have a monetary value to the institution. They are a product that brings money and that is worth lowering the GPA requirement 1 point or more and foregoing the use of the SAT. The commercialization of football played a tremendous role in the admission of athletes at UGA. This pressure, supported by the president, created the difficult

decisions that administrators like Leroy Ervin and Virginia Trotter had to make.

According to the organizational structure, Ervin had the ultimate decision making power for Developmental Studies admissions, but he never felt that way. In an interview during the Board of Regents audit of Developmental Studies programs in the state of Georgia, Ervin described one instance where he felt he had no choice in admitting an athlete.

There was one woman that we had no choice- well, she was an athlete, but she was a non-revenue producing athlete. But the point is, is that she was going to be taken- that was made clear. She was a [relative] of one of the most prominent athletes.<sup>228</sup>

In a joint interview with Dr. Trotter, Ervin described how he received pressure from the athletic department.

[Dick] Copas would say, Well, you know Vince [Dooley] is gonna get his way, so, you know, I . . . he's gonna send me to Dr. Trotter, and if Dr. Trotter says no, then he's going to go to the President, and he's gonna get what he wants from the President.<sup>229</sup>

During the interviews, Ervin felt that he was caught in the middle. He was expected to deliver the message to faculty members on admissions exceptions and exiting overrides. Even if he disagreed, he felt there wasn't an option without directly defying the President, Vice-President for Academic Affairs, and the Athletic Director.

Davison's real views on college football at the University of Georgia may never be known, but Virginia Trotter recalled an exchange when she was interviewed during an audit of Developmental Studies programs throughout the state of Georgia following the Kemp trial. She said that he never pressured her to exit students or give preferential

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<sup>228</sup> L. Ervin, Interview by Ray Cleere for the Developmental Studies Audit of the University of Georgia, March 5, 1986, 13-14.

<sup>229</sup> L. Ervin, Interview by Ray Cleere for the Developmental Studies Audit of the University of Georgia, March 5, 1986, 21.

treatment to athletes, but he would make statements to her like, “if we couldn’t exit the students, then we could just play high school football.”<sup>230</sup>

During an interview, Hue Henry shared his view on the current state of intercollegiate athletics at the University of Georgia. Henry’s response was,

I think it’s a mess. I think we addressed flat out corruption in the Kemp trial. I don’t think we addressed it and it wasn’t appropriate for us. The systemic problems have never been addressed. I was really disappointed to see the standing of athletes today. In fact, in today’s paper the graduation rates are falling. I mean, did we forget. [laughs] Apparently so, I mean that’s been a long time. It will be 20 years this past year.<sup>231</sup>

Today’s college athletics programs still evidence Howard Pritchett’s list of evils. Many coaches today make more money than the president of the university. Revenues at big-time college athletic programs are at an all-time high. Athletes in football, basketball, and other sports to some extent have separate dining halls and fly charter planes to participate in their sport. Instances of drug use, violence, and academic misconduct put universities in the news on a regular basis in relation to their football program. Watterson claimed that “the interplay of costs and revenues drove big-time gridiron powers to go all out to create powerful and profitable teams.”<sup>232</sup> The desire to create a profitable team is exactly what led the University of Georgia to support athletic initiatives regardless of how they affected the institutions academic perception and policies.

During the trial, Davison acted as if he had no knowledge of the decisions being made by his chief administrators. Trotter and Ervin both vehemently contended that Davison knew about the decisions to exit athletes and other forms of academic corruption. Davison tried to cover this issue by continuing to argue about his involvement with the

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<sup>230</sup> L. Ervin, Interview by Ray Cleere for the Developmental Studies Audit of the University of Georgia, March 5, 1986, 14.

<sup>231</sup> Hue Henry, interview by author, November 1, 2006.

<sup>232</sup> Watterson, College Football, 378.

NCAA in crafting Proposition 48, which was another attempt at reform. However, it is difficult to believe that Davison was not aware of and involved in decisions about athletes as he claimed during the trial. Davison had a history of micromanaging the faculty and staff at the university. Hue Henry told of stories where Davison directly involved himself in decisions to close down lab experiments and to personally ban Henry from speaking on campus. In his early years as president, he did not allow students to protest the war in Vietnam. Additionally, Davison continuously spoke of how he was leading the charge in athletic reform and that once they made changes nationally, the university would change. Despite all of the rhetoric surrounding Davison's real involvement in academic corruption at the University of Georgia, it is Davison's inaction when it came to the issues in the Jan Kemp trial that offer insight into the greatest concern for future reform efforts.

Like presidents before him at UGA and other universities, Davison never looked to his own campus as a catalyst and canvas for reforming college football. He used the argument that other schools do it, so UGA is just like them. Davison never considered putting the academic mission ahead of all other needs. He concerned himself with the utilitarian benefit that athletes brought to the university. Instead, he blamed high schools for not preparing the athletes for college. He asked Trotter to find ways to keep athletes eligible or the university may be forced to play high school football. With this lack of support from the president, any meaningful attempt at reform at the University of Georgia most likely would be in vain.

### Recommendations for Future Research

One area to consider for future research is to compare the state of athletics at the University of Georgia between 1986 and now. As is likely with any crisis, some immediate changes occurred within the faculty senate and in some procedures. However, an important question is: what long term effect, if any, has the athletic department and the university seen in relation to the trial. The issues seen at the University of Georgia are not isolated events. Every year, universities around the United States face scandals related to the interplay of athletics and academics. The reality is that college football is big business.

Murray Sperber argued this point in his book Beer and Circus. Sperber compared college athletics to a business. Sperber argued that universities are running athletic departments like a business and thus lacking any regard for the academic well-being of athletes.<sup>233</sup> With the amount of money involved in revenue-producing athletics, any substantive challenge to the current athletic structure must address the revenue issue. Therefore, the main reason reform efforts have failed and will continue to fail is that the majority of universities and the presidents leading them will not make major changes if they believe changes will impact revenue in a negative way. So despite all the corruption, preferential treatment, publicity, and more, money is the driving force that allows athletic departments and football programs to maintain their power and connection. This offers another question for future research: Can efforts to reform college football make a difference on a very small and local level if they have a certain level of notoriety and

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<sup>233</sup> Murray Sperber, Beer and Circus: How Big-Time College Sports Is Crippling Undergraduate Education, (New York: Holt and Company, 2000).



people willing to sacrifice themselves physically and mentally for challenging the athletic association?

The stress and pressure that Jan Kemp endured is something to be studied closer. Hue Henry felt that Kemp went through a whistleblower syndrome. While there have been studies of whistleblowers in corporations, one way to understand the psychological and physical impact of corruption is to look at whistleblowers in college athletics. Kemp tried to kill herself as a result of the trial, faced continued stress from the decisions made in Developmental Studies, and faced a ruined marriage as a result of her experience. If Kemp's experience is an indicator of what a person must go through to challenge a system as powerful as college football, it is not surprising that few people choose to fight as long and as hard as Kemp.

The other psychological impact to consider is that of the athlete and the impact race has on the decisions of administrators as well. Throughout this analysis, many of the discussions surrounding these athletes focused on students who were illiterate, unmotivated academically, and who more than likely never graduated. A majority of these athletes were African-American. What is the impact of the system on these athletes? In the case of the University of Georgia, the data showed that these athletes were considered of a utilitarian benefit to the institution. Leroy Ervin is African-American and was in a position to challenge the system, but felt he had no choice due to the power and influence of athletics and the lack of support he received from the President. Ervin highlighted the racial component in the meeting secretly taped by Teresa Timmons:

We try to teach them there but there is no way to do it. The majority of these kids are black that are coming in, and it kind of rips at me at the insides and I take it very, very, personal. I know for a fact that these kids would not be here if it were not for their utility to the institution. They are used as a kind of raw material in

the production of some goods to be sold as whatever product, and they get nothing in return.<sup>234</sup>

They are the major producers of the revenue, but they receive the least amount of resources and support from the institution. Another study could take a closer look at how athletes respond to the system. What happens to them after football? Do they become postal workers instead of garbage men as Hale Almand suggested during his opening statement?

### The Challenges of Athletics Reform

Considering what Kemp went through during her experience at the University of Georgia, it is disheartening to consider that her efforts were in vain. However, graduation rates for football players at the University of Georgia are still around 48%.<sup>235</sup> The athletic association is still a private entity that controls the program outside the umbrella of the institution. The university has faced violations and scandals in basketball as recently as 2003. Unfortunately, it appears that the Kemp trial did not have the effect of completely reforming college athletics.

It is hard to imagine a scenario where universities would risk losing fans and thus revenue in exchange for focusing on academic prowess. Even in the situation at the University of Chicago where the president abolished football, he was only successful doing so when the team was losing and the program was not as financially beneficial. Thelin suggested that reform efforts ought to focus on controlling participation of athletes so they cannot play during their freshman year.<sup>236</sup> Watterson thinks that the faculty

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<sup>234</sup> Teresa Timmons, audiotape recording of faculty meeting in the Developmental Studies Program, Fall 1983

<sup>235</sup> Kristen Coulter, "UGA Football, Men's Basketball in SEC Cellar for Graduation Rates," The Red and Black, 5 October 2008.

<sup>236</sup> Thelin, Games Colleges Play, 197.

should be more involved in the control of athletics.<sup>237</sup> Sperber argues that college athletics should be made professional and be only affiliated with universities in name.<sup>238</sup> The athletes would not be students and the athletic association would receive no benefits of being a part of the university. In the current scenario, reform efforts continue to offer adjustments to the core issues in college football. However, the two main themes presented in every major reform effort remain at the core, commercialization and presidential control.

Reform isn't where universities and the NCAA should focus energy. Instead, the focus needs to be on slowly coming to terms with the realization that football will remain a powerful influence at universities as long as generating revenue is important to universities. In a capitalist economy, the generation of revenue may never become a secondary concern for institutions. Therefore, institutions are left with modifying the system towards a goal that satisfies the supporters of unwavering academic integrity and athletic boosters. The experience of the actual athletes during and beyond college needs to be the focus of research and reform in college football. Utilizing data on the quality of life of the majority of athletes, not just the privileged few who go on to play professionally, can provide needed information to make better decisions concerning athletic programs and the students who participate in them.

A final observation concerns another possible avenue of reform. As it stands now, the crux of the issue comes down to justifying the lowering of academic standards to accommodate athletes. In reality, many of these athletes would never be able to attend the universities where they play football without an athletic scholarship. However, if

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<sup>237</sup> Watterson, *College Football*, 387.

<sup>238</sup> Sperber, *College Sports Inc.*, 345.

these universities began forming partnerships with community and technical colleges to allow athletes the option to major in an associate degree level technical program there would not be the issue of the athlete being unable to meet the academic standards. For example, the University of Georgia and Athens Technical College are both in the same town. If the two institutions merged, athletes could major in associate degree programs like welding and graphic design. They would be able to take classes at an academic level they are prepared for at the time they start college. In the event they are unable to continue playing football after two or three years, they would more than likely have completed a program that affords them the knowledge of a trade that allows them to attain employment after college. Additionally, if they do grow academically, they could continue in a bachelor's degree program at the university. Since most technical and community colleges have open admissions, this would eliminate the need to lower standards and fill spots in the university with athletes. These spots could be filled by students with the academic credentials to go directly into bachelor's degree level work. Unfortunately, college football has evolved to a point where no matter how genuine a reform effort may be, it has little chance of changing the current system. Instead, institutions continue to tweak and modify the current structure without making significant changes.

The Jan Kemp trial offers an in-depth look into the negative impact revenue producing athletics had on one university and a large number of the people involved. Kemp's story is important because it offers a glimpse into the issues that future administrators must consider as they work with revenue-producing athletics like college football. In 2008, Georgia State University officially started a football program. The

university will spend 7 million dollars to start the program. Carl Patton, president of Georgia State University, spoke about why football was started at Georgia State. “I’d talk to students and they all said we want a real university and when they said real, they meant football.”<sup>239</sup> Patton’s view of football at Georgia State is indicative of the perception that Doug Toma argued in Football U.<sup>240</sup> As Georgia State develops its football program, the chief administrators and primarily the president must make difficult decisions early on about what influence football will have on decisions concerning the academic mission. Heeding the warning signs that evolved from the Jan Kemp trial may help them avoid the same pitfalls as they face the real challenge of balancing football with academic integrity.

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<sup>239</sup> Stan Awtry, “Now a football school, GSU still has work to do,” The Atlanta Journal-Constitution, April 18, 2008, p. H3.

<sup>240</sup> D. Toma, Football U.

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## APPENDIXES

### APPENDIX A

#### Interview Questions

## The Effects of the Jan Kemp Affair on the University of Georgia

### Interview Questions

These questions serve as a guide for each interview. In some cases, additional questions may be asked or questions may be deleted depending on the direction of the interview and/or the perspective the participant may bring to the research.

#### Personal Information

1. Could you please give me some basic background information about yourself—your full name, date and place of birth, education, career portfolio, your current occupation?
2. During what time frame were you employed at the University of Georgia?
3. Tell me about your role(s) at the University of Georgia while you were employed there.

#### View of Intercollegiate Athletics and College Football

4. Describe to me your general views on intercollegiate athletics and specifically college football.
5. Tell me your thoughts and feelings when I say the term, student-athlete.
6. Describe for me your thoughts on the past and current attempts to reform intercollegiate athletics.
7. Some people might say that college football has an extremely large amount of power and influence on college campuses. What do you say in response to that statement?

#### Perceptions of College Football at the University of Georgia

8. Share with me your perception of college football at the University of Georgia.
9. Describe your perception of college football players at the University of Georgia.
10. At the University of Georgia, how does college football relate to the rest of the institution?
11. At what level, if any, do you participate in college football experience at the University of Georgia?
12. How does the general student body react to college football at the University of Georgia?

#### Perception of the Campus Environment and the Jan Kemp Affair

13. Describe the campus environment before the Jan Kemp case. How did it change during the trial? Please share your thoughts on how the environment has changed, if any, since then.
14. Describe your memories of the Jan Kemp affair at the University of Georgia. What was it like? How were you involved in the situation? How did you respond

when you learned of the case? What did it make you think about the University and college football?

15. How did the Jan Kemp affair affect student-athletes? General student body? Faculty? Staff? Alumni?
16. Tell me your thoughts on the following key figures/departments in relation to the Jan Kemp Affair.

- Jan Kemp
- Virginia Trotter
- Leroy Ervin
- Fred Davison
- Vince Dooley
- Hue Henry/Pat Nelson- attorneys for Jan Kemp
- Hale Almand- attorney for the University
- Developmental Studies
- Athletics Department
- Faculty
- NCAA

### Conclusion

17. What factors and influences created the Jan Kemp trial? Why?
18. How did the Jan Kemp trial affect the University and athletics in the years following the settlement?
19. What consequences if any, has the University faced for being involved in improprieties?



APPENDIX B

Informed Consent

Georgia State University  
Department of Educational Policy Studies

**Informed Consent**

Title: The Jan Kemp Affair at the University of Georgia: A Challenge that Led to Reform

Principal Investigator: Dr. Philo Hutcheson, P.I.  
Michael Fulford, Student P.I.

I. Purpose:

The purpose of the study is to investigate the effects of the Jan Kemp affair on the University of Georgia. You have been asked to participate in this study because of your unique knowledge of the case and its effects on the University of Georgia. Participation will require a minimum of 1 hour of your time and based on your responses may take up to a maximum 3 hours. In addition, you may be asked some questions beyond the interview time in order to clarify answers.

II. Procedures:

If you decide to participate, you will meet with Michael Fulford and answer questions related to the Jan Kemp affair and its effects on the University of Georgia. The following is a synopsis of your involvement in this study:

1. We will meet at a location of your choice.
2. The duration of the interview will be a minimum of 1 hour but may go longer to a maximum of 3 hours dependent on your involvement and the answers you give.
3. You will be interviewed only by Michael Fulford
4. The interview will involve you and Michael Fulford only.
5. The interview will be recorded for analysis purposes and to ensure accurate communication of your answers in the study.
6. At any point in time, you may end the interview simply by saying, "I need to stop here."
7. The interview will consist of open ended questions related to the Jan Kemp and its effects on the University of Georgia.

III. Risks:

In this study, you will not have any more risks than you would in a normal day of life.

IV. Benefits:

Participation in this study may not benefit you personally. Overall, we have to gain information about the effects on the Jan Kemp case on the University of Georgia to better understand how intercollegiate athletics affects educational institutions and to understand reform efforts.

V. Voluntary Participation and Withdrawal:

Participation in this research is voluntary. You have the right to not be in this study. If you decide to be in the study and change your mind, you have the right to drop out at any time. You may skip questions or stop participating at any time. Whatever you decide, you will not lose any benefits to which you are otherwise entitled.

VI. Confidentiality:

Due to the nature of this study, the information you provide in your interview will be used in the analysis. Since your perspective is specific and vital to the success of the study, your name will be attached to your answers whenever they are used in the study in order to give you proper credit for the answer and for purposes of validity. If there is any information you disclose which you want to be kept confidential, identify that information and the researcher will not use that information in the study.

VII. Contact Persons:

Contact Michael Fulford at 678-376-5441 or [michael\\_fulford@talkamerica.net](mailto:michael_fulford@talkamerica.net) or Dr. Philo Hutcheson at [phutches@gsu.edu](mailto:phutches@gsu.edu) if you have questions about this study. If you have questions or concerns about your rights as a participant in this research study, you may contact Susan Vogtner in the Office of Research Integrity at 404-413-3513 or [svogtner1@gsu.edu](mailto:svogtner1@gsu.edu).

VIII. Copy of Consent Form to Subject:

We will give you a copy of this consent form to keep.  
If you are willing to volunteer for this research, please sign below.

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Participant

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Date

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Principal Investigator or Researcher Obtaining Consent

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Date