

**CONGRESS AND BOXING:
A Legislative History, 1960–2003**

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Edited by

Edmund P. Edmonds

*Director of the Schoenecker Law Library
and Professor of Law
University of St. Thomas School of Law*

&

William H. Manz

*Assistant Law Librarian and
Director of Student Publications
St. John's University School of Law*

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CONGRESS FINALLY LANDS A ONE-TWO COMBINATION: A LEGISLATIVE HISTORY OF THE PROFESSIONAL BOXING SAFETY ACT OF 1996 AND THE MUHAMMAD ALI BOXING REFORM ACT

Ed Edmonds*

On October 9, 1996, President Bill Clinton signed the Professional Boxing Safety Act of 1996,¹ signaling the end of more than forty years of congressional fascination with the controversial sport of professional boxing without the enactment of legislation. Starting with a series of hearings before Estes Kefauver's antitrust subcommittee in 1960, Congress regularly considered legislation requiring federal intervention into some aspect of boxing. After thirty-five years of consideration, Congress finally passed an act "to improve and expand the system of safety precautions that protects the welfare of professional boxers; and ... to assist State boxing commissioners to provide proper oversight for the professional boxing industry in the United States."² Less than four years later, Congress would amend the Professional Boxing Safety Act of 1996 in an act³ honoring arguably the greatest name in United States boxing history, Muhammad Ali.

*Director of the Schoenecker Law Library and Professor of Law, University of St. Thomas School of Law, B.A., 1973, University of Notre Dame, M.L.S., 1974, University of Maryland, J.D., 1978, University of Toledo. I want to thank research assistant Jason Schmit, a member of the inaugural 2004 graduating class of the University of St. Thomas School of Law, for his work on this project. I would also like to express my appreciation to Ian Forman and Jonathan McElroy, former students in my Seminar on the Regulation of the Sports and Entertainment Industries at Loyola University New Orleans School of Law. Their outstanding papers in that seminar were later published. See Ian Forman, *Boxing in the Legal Arena*, 3 SPORTS LAW. J. 75 (1995), Jonathan S. McElroy, *Current and Proposed Federal Regulation of Professional Boxing*, 9 SETON HALL J. SPORT L. 463 (1999).

¹Pub. L. No. 104-272, 110 Stat. 3309 (1996) (codified as amended at 15 U.S.C. §§ 6301-6313 (2000)). See also Joseph Skrec, *Don't Count Out Jersey Fighter; Maciunski Full of Surprises*, RECORD (Northern New Jersey), Dec. 1, 1996, at S19, available at 1996 WL 6120913.

²15 U.S.C. § 6301 (2000).

³Muhammad Ali Boxing Reform Act, Pub. L. No. 106-210, 114 Stat. 321 (1999) (codified at 15 U.S.C. §§ 6301, 6303, 6305, 6306, 6307 a-h, 6308, 6309, 6313 (2000)).

The United States Supreme Court Deals a Blow to Boxing

Boxing in the United States has a long and storied history reaching levels of great popularity during the early twentieth century.⁴ Organized crime assumed a large role in the sport during the 1940s and 1950s, garnering the attention of the United States Department of Justice.⁵ The Justice Department moved against key corporations and individuals controlling boxing by filing a civil antitrust action in the Southern District of New York against the International Boxing Club of New York, Inc., the International Boxing Club, the Madison Square Garden Corporation, James D. Norris and Arthur M. Wirtz,⁶ claiming a violation of sections 1 and 2 of the Sherman Antitrust Act.⁷ The defendants requested a dismissal of the government's monopoly and attempted monopoly complaint arguing that boxing, like baseball, was exempt from antitrust scrutiny because of the United States Supreme Court decisions in *Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs*⁸ and *Toolson v. New York Yankees, Inc.*⁹ After the district court granted the motion, the United States appealed directly to the United States Supreme Court under the Expediting Act.¹⁰ The government argued that substantial use of interstate commerce in promoting fights, particularly through broadcasting on television, radio, and theaters, compelled a different result.¹¹ Deciding the case on the same day that it considered a similar antitrust action against the theater business,¹² the Court held that the Justice Department's complaint did state a cause of action.¹³ The Court's decision encouraged Congress to take a closer look at boxing.

⁴See Forman, *supra* note 1, at 76–77; see also Peter E. Millspaugh, *The Professional Regulation of Professional Boxing: Will Congress Answer the Bell?*, 19 SETON HALL LEGIS. J. 33, 38 (1994).

⁵See Senator John McCain & Ken Nahigian, *A Fighting Chance for Professional Boxing*, 15 STAN. L. & POL'Y REV. 7, 11 (2004).

⁶*United States v. Int'l Boxing Club of New York, Inc.*, 348 U.S. 236, 237 n.1 (1955).

⁷15 U.S.C. §§ 1–2 (2000).

⁸259 U.S. 200 (1922).

⁹346 U.S. 356 (1953).

¹⁰15 U.S.C. § 29 (2000).

¹¹*Int'l Boxing Club*, 348 U.S. at 238–39.

¹²*United States v. Shubert*, 348 U.S. 222 (1955).

¹³*Int'l Boxing Club*, 348 U.S. at 263.

Congress Joins the Action

Senator Estes Kefauver, chair of the Senate Subcommittee on Antitrust and Monopoly, initiated a four-year investigation of professional boxing in 1960 searching for confirmation that organized crime controlled the sport.¹⁴ The Democrat from Tennessee was a well-known crusader against the Mafia. He chaired the Special Committee to Investigate Organized Crime in Interstate Commerce a decade earlier. The hearings opened under the leadership of Senator Philip Hart on June 14. John Bonomi, the assistant district attorney for New York County and a long-time opponent of the mob, served as chief examiner and assistant counsel for the subcommittee. The focus of the first set of hearings was organized crime's involvement in fixing fights in the middleweight division.

Popular fighter Jake LaMotta and his brother Joseph appeared before the subcommittee on June 14 and 15.¹⁵ The subcommittee was particularly interested in the actions of convicted mobster Frankie Carbo (incarcerated at that time in Riker's Island), Frank "Blinky" Palermo and others.¹⁶ LaMotta confessed to the subcommittee that he had thrown a fight with Billy Fox on November 14, 1947, to assure himself of a title bout against Gus Lesnevich.¹⁷ Fox's reward for his complicity was a light heavyweight title fight. Fox lost his title bout against Lestovich on February 28, 1947, in ten rounds. He lost a rematch one year later in the initial round.¹⁸ LaMotta claimed that he had earlier turned down \$100,000 on June 6, 1947, to throw a fight against Tony Janiro at Madison Square Garden.¹⁹ Fox

¹⁴See *Professional Boxing, Part I: Jacob "Jake" LaMotta: Hearings Before the Subcomm. on Antitrust and Monopoly of the Comm. on Judiciary*, 86th Cong. (1960) [hereinafter *1960 Hearings*]. For an analysis of Kefauver's efforts, see STEPHEN R. LOWE, *THE KID ON THE SANDLOT: CONGRESS AND PROFESSIONAL SPORTS, 1910-1992*, 62-76 (1995). For biographies of Kefauver, see HUGH BROGAN, *ALL HONORABLE MEN: HUEY LONG, ROBERT MOSES, ESTESE KEFAUVER, RICHARD J. DALEY* (2001); CHARLES L. FORTENAY, *ESTES KEFAUVER: A BIOGRAPHY* (1980), JOSEPH B. GORMAN, *A POLITICAL BIOGRAPHY* (1971).

¹⁵See *1960 Hearings*, *supra* note 14, at 6-39 (testimony of Jake LaMotta), 50-59 (testimony of Joseph LaMotta).

¹⁶*Id.* at 1 (testimony of Jacob LaMotta).

¹⁷*Id.* at 7-10 (testimony of Jacob LaMotta). See also NICK TOSCHES, *THE DEVIL AND SONNY LISTON* 128 (2000).

¹⁸JEFFREY T. SAMMONS, *BEYOND THE RING: THE ROLE OF BOXING IN AMERICAN SOCIETY* 148 (1988).

¹⁹*Id.* at 20, 26 (testimony of Jacob LaMotta).

knocked out a “passive and powerless LaMotta in four rounds.”²⁰ The New York State Athletic Commission, feeling that something was amiss, withheld the purses and suspended LaMotta as a result of their review of his actions. LaMotta ultimately had to pay \$20,000 to Lew Burston and Sam Richman for the promised title shot against Marcel Cerdan.²¹

A number of witnesses called by the Kefauver subcommittee, including Joey LaMotta, pleaded the Fifth Amendment at the hearings. Joey, in fact, pleaded the Fifth Amendment more than fifty times.²² Jake LaMotta’s admission before the subcommittee controverted his earlier testimony before a grand jury investigating committee.²³ Carbo, who was brought to Washington, D.C., from his New York prison cell, also pleaded the Fifth Amendment more than fifty times.²⁴

The December round of hearings focused on Carbo. Truman Gibson, a former president of IBC, testified that Carbo and Norris had connections with nearly every important promoter and manager in the country.²⁵ Manager Herman Wallman also testified about Carbo’s power within the fight game.²⁶

On March 29, 1961, Senator Kefauver introduced S. 1474,²⁷ an anti-racketeering act that would create an Office of National Boxing Commissioner. The Commissioner, a position within the Department of Justice, would assume responsibility for licensing boxers, managers, and promoters.

The 1961 follow-up hearings were held from May 31 through June 2.²⁸ Rocky Marciano, the first in a long list who testified in support of the legislation, noted “[i]t seems absolutely essential that a Federal czar be

²⁰SAMMONDS, *supra* note 18, at 147.

²¹1960 *Hearings*, *supra* note 14, at 31–32 (testimony of Jacob LaMotta). *See also* SAMMONS, *supra* note 19, at 148.

²²*Id.* at 51–58 (testimony of Joseph LaMotta).

²³*Id.* at 9–29 (testimony of Jacob LaMotta).

²⁴*Id.* at 839–45 (testimony of John Paul Carbo). *See also* SAMMONS, *supra* note 18, at 148.

²⁵1960 *Hearings*, *supra* note 14, at 283–306 (testimony of Truman Gibson).

²⁶*Id.* at 425–71 (testimony of Herman Wallman).

²⁷S. 1474, 87th Cong. (1961).

²⁸*See Professional Boxing, Part 3: Hearings Before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary*, 87th Cong. (1961) [hereinafter *1961 Hearings*].

named to head the professional sport of boxing.”²⁹ Marciano hoped that the new czar would have the power to subpoena, to fingerprint everyone with a connection to boxing, and to act like “a little FBI.”³⁰ Joe Louis’ unfortunate tax problems prompted Marciano to call for the withholding of taxes at the point of distributing the purse to the fighter.³¹ Marciano finished his testimony by recommending John Bonomi for the position of czar despite the fact that they had “never met until this morning.”³²

Gene Fullmer and his manager Marvin Jensen testified next. Fullmer stated “I truly feel that this bill that the committee is proposing is a very worthwhile thing, and I feel that it should be passed.”³³ Jensen agreed stressing that “[a]s Gene pointed out, it would restore the faith of the public in boxing.”³⁴

Tommy Loughran, the lightweight champion from 1927 to 1929, also lent his support observing that “[i]f the game is going to survive ... I feel positively certain that it will require a Federal Commissioner.”³⁵ California Athletic Commission member Harry Falk appeared next before the subcommittee. Speaking on behalf of the five-member commission, Falk commented that “[w]e have discovered, as far as we can ascertain, that everyone in the boxing world is not only for this bill, but they believe that it is absolutely essential to the preservation of boxing and the effect that that has upon the sports of the country and physical fitness.”³⁶ Falk’s colleagues had pressed him to go to Washington and argue on behalf of Kefauver’s bill because the California Commission was unable to control the sport in their state. Falk pressed this point by arguing that “when the States, particularly an aggressive State like California, admits that it cannot exercise effective control, it becomes obvious that only Federal control can do the job.”³⁷ Falk discussed the business side of boxing including the large

²⁹*Id.* at 1267 (testimony of Rocky Marciano).

³⁰*Id.* at 1268 (testimony of Rocky Marciano).

³¹*Id.* at 1268–69 (testimony of Rocky Marciano). For a discussion of Louis’ tax problems with the Internal Revenue Service, see RICHARD BAK, *JOE LOUIS: THE GREAT BLACK HOPE*, 204, 209, 243, 248–49, 259–62 (1996).

³²*1961 Hearings, supra* note 28, at 1269 (testimony of Rocky Marciano).

³³*Id.* at 1279 (testimony of Gene Fullmer).

³⁴*Id.* at 1281 (testimony of Marvin Jensen).

³⁵*Id.* at 1295 (testimony of Tommy Loughran).

³⁶*Id.* at 1305 (testimony of Harry Falk).

³⁷*Id.* at 1306 (testimony of Harry Falk).

percentage of purses taken by the fighter's managers.³⁸ Falk also argued on behalf of more than one hundred officials who favored the passage of the legislation.

Former champion Joe Louis spoke on June 1. Louis commented that New York was a haven for the mob because the New York Commission refused to join the National Boxing Association, a group intending to assert national control over the sport.³⁹ Louis commented that "I wholeheartedly endorse your bill."⁴⁰

Major General Melvin Krulewitch, chairman of the New York State Athletic Commission, offered his observation that "it would be most helpful, should this bill be passed, to adopt a system of uniform rules and regulations for the operation of the professional boxing industry in the various States as well as uniform rules and regulations for medical care and supervision of the boxers."⁴¹ Alfred Klein, a member of the Pennsylvania Athletic Commission represented the National Boxing Association at the hearings. Klein wanted the Federal Boxing Commission to reside within the Department of Justice because of the importance of the investigative power of the Justice Department.⁴²

Former NBA President Abe Green testified on June 2, and he supported Kefauver's position by arguing that "I would like to go a little further, Senator, and say to you that the state of boxing today is so anemic that it calls for something dramatic, and it would seem to me that the investigation which you are conducting and the proposed legislation which is now before the Congress are the very things which are so absolutely essential to restore boxing to good favor in the country."⁴³ Green also pressed for the establishment of pensions for boxers.⁴⁴

Jack Dempsey also addressed the committee on June 2. Senator Kefauver questioned the ex-champion, "Mr. Dempsey, you say in your letter that unless something is done through the Federal Government that will control and regulate boxing, the game will die." Dempsey responded, "Yes, sir. As a matter of fact, I think it is just about on its last legs now. I think

³⁸*Id.* at 1307 (testimony of Harry Falk).

³⁹*Id.* at 1333 (testimony of Joe Louis).

⁴⁰*Id.* at 1332 (testimony of Joe Louis).

⁴¹*Id.* at 1346 (testimony of Melvin Krulewitch).

⁴²*Id.* at 1386 (testimony of Alfred Klein).

⁴³*Id.* at 1389 (testimony of Abe Green).

⁴⁴*Id.* at 1395 (testimony of Abe Green).

that the only one thing that will save boxing is new boxing laws that should be put into effect where everyone will know that it is all about, what they are doing to stop all this stuff that is going on.”⁴⁵ Kefauver also asked about the impact of closed-circuit television on boxing, and Dempsey stressed that too many fights were being shown on the small screen, resulting in a deterioration of the sport.⁴⁶

Admiral John Bergen, the Chairman of the Board of Directors of Madison Square Garden, discussed the national Saturday night television contract sponsored by Gillette for \$1,225,000.⁴⁷ The admiral also mentioned his support for pensions for boxers.⁴⁸

Former heavyweight champion Gene Tunney’s comments went to the heart of the issue:

Now, there is a great tendency for monopoly to develop in this sport, as in all sports, and monopoly in the sport is strong, influential, and almost unbreakable. When we should have thought of a Federal Commissioner was when television and radio were perfected, because then it became interstate, and, as I understand it ... once a thing goes interstate, then the Federal Government can come in.⁴⁹

Tunney decried the deteriorated state of the game.⁵⁰

Nat Fleischer, President and Editor of *Ring Magazine*, told the subcommittee that New York was precluded from joining the NBA because of the NBA’s legislative powers. New York law prevented the Commission from joining an organization where the rules and regulations conflicted with state law.⁵¹ Fleischer also observed that “Senator, until very recently I was very much opposed to the passage of a bill as you have placed before the Congress, but I changed my mind after reading and digesting the contents of the statements that were made over here during the early hearings that you had.”⁵²

⁴⁵*Id.* at 1405 (testimony of Jack Dempsey).

⁴⁶*Id.* at 1408 (testimony of Jack Dempsey). For an excellent analysis of Dempsey’s place in sports history in the 1920s, see ROGER KAHN, *A FLAME OF PURE FIRE: JACK DEMPSEY AND THE ROARING ’20S* (1999).

⁴⁷*1961 Hearings, supra* note 28, at 1431–32 (testimony of John Bergen).

⁴⁸*Id.* at 1433 (testimony of John Bergen).

⁴⁹*Id.* at 1418 (testimony of Gene Tunney).

⁵⁰*Id.* at 1420 (testimony of Gene Tunney).

⁵¹*Id.* at 1442 (testimony of Nat Fleischer).

⁵²*Id.* at 1440 (testimony of Nat Fleischer).

Senator Kefauver placed comments on the record hailing boxing as “a great American sport,⁵³ but one that “is certainly deteriorating.”⁵⁴ The hearings left the Senator “more convinced than ever before that a limited type of Federal regulation such as is recommended by this bill would be successful and in the public interest. I think it would clean up the undesirables. I think it would encourage the expansion of the sport.”⁵⁵

Section two of S. 1474 also pointed out Kefauver’s perception of the problem:

The domination and monopolistic control of professional boxing contests by racketeers and other undesirable persons has become a matter of serious concern to Congress and the Nation. These boxing contests, because of their interstate character, are presently beyond the power of any State to fully and effectively regulate. It is therefore the sense of the Congress that there is a need to establish for a period of five years within the Department of Justice the Office of the National Boxing Commissioner to license participants in professional boxing contests in or affecting interstate commerce.⁵⁶

*Carbo v. United States*⁵⁷

While Kefauver’s subcommittee was carefully considering the state of boxing, the United States filed an action against Frank Carbo, Blinky Palermo, Joe Sica, Louis Dragna, and Truman Gibson. The specific target of the government’s case was the defendants’ efforts to control welter-weight Don Jordan by pressuring manager Donald Nesselth.⁵⁸ The government charged the defendants with extortion in violation of the Hobbs Act,⁵⁹ as well as violations of 18 U.S.C. § 875(b)⁶⁰ and 18 U.S.C. § 371.⁶¹ After an indictment by a grand jury in the Southern District of California, the defendants were found guilty and sentenced in 1961.⁶² The illegal scheme uncovered in the Senate was discussed by the Ninth Circuit Court

⁵³*Id.* at 1461 (testimony of Estes Kefauver).

⁵⁴*Id.* (testimony of Estes Kefauver).

⁵⁵*Id.* (testimony of Estes Kefauver).

⁵⁶S. 1474, 87th Cong. (1961).

⁵⁷314 F.2d 718 (9th Cir. 1963).

⁵⁸*Id.* at 723.

⁵⁹18 U.S.C. § 1951 (2000).

⁶⁰*Id.* § 875(b).

⁶¹*Id.* § 371.

⁶²*Carbo*, 314 F.2d at 723.

of Appeals noting payments to Carbo's wife Viola Masters.⁶³ The appellate court detailed the defendants' behavior towards Nesseth, ultimately forcing the manager to consent to their demands.⁶⁴ Jordan defeated Carbo-controlled Virgil Atkins to become the welterweight champion, and Jordan also won the forced rematch.⁶⁵ When Nesseth refused to pay Palermo after the rematch, Carbo and Palermo began to threaten Jordan's manager.⁶⁶ After a considerable discussion of numerous points raised on appeal,⁶⁷ the Ninth Circuit upheld the convictions of Carbo, Palermo, and Gibson.⁶⁸ The court upheld Sica's conviction on four counts while reversing of the judgment on the fifth count.⁶⁹ Dragna's conviction was reversed.⁷⁰

The Liston-Clay Fights

In March 1964, the Senate Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary held five days of hearings on the Sonny Liston-Cassius Clay heavyweight championship fights.⁷¹ Recently deceased Senator Kefauver⁷² had prepared S. 1182,⁷³ again proposing a National Boxing Commissioner. New York Senator Kenneth Keating observed that "I do not believe ... that with the possible exception of deaths in the ring there has been another single occurrence that has contributed more to bringing professional boxing into widespread public disrepute than the Liston-Clay bout and the antics that both preceded and followed it."⁷⁴

Garland Cherry, the Secretary of Inter-Continental Promotions, Inc. and Delaware Advertising and Management Agency, Inc. spoke about the

⁶³*Id.* at 725.

⁶⁴*Id.* at 725–26.

⁶⁵*Id.* at 726.

⁶⁶*Id.* at 727–31.

⁶⁷*Id.* at 731–50.

⁶⁸*Id.* at 750.

⁶⁹*Id.*

⁷⁰*Id.*

⁷¹See *Professional Boxing, Part 4: Liston-Clay Fight: Hearings Before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary*, 88th Cong. (1964) [hereinafter *1964 Hearings*].

⁷²Senator Kefauver died on August 10, 1963. For a tribute to the efforts of Senator Kefauver by the author of boxing's two pieces of federal legislation, see McCain & Nahigian, *supra* note 5, at 14.

⁷³S. 1182, 88th Cong. (1963).

⁷⁴*1974 Hearings, supra* note 71 at 1598 (testimony of Kenneth Keating).

creation of Inter-Continental and the staging of the Liston-Patterson and Liston-Clay Miami fight.⁷⁵ Jack Nilon, the majority stockholder of the Delaware Advertising & Management Agency, Inc. presented testimony on the financial arrangements between Liston and Clay requiring that the Louisville Sponsoring Group representing Clay guarantee sponsorship to the Liston group if Clay upset the champion. Fifty percent of the stock was controlled by Liston and 45% belonged to brothers Robert and James Nilon. The remaining five percent belonged to Garland Cherry.⁷⁶

Gordon Davidson, an attorney testifying on behalf of the Louisville Sponsoring Group also discussed the agreement that Clay would guarantee to Liston and Inter-Continental the right to promote a rematch if Clay won.⁷⁷ Davidson commented that the Federal Boxing Commission was “[n]ot only desirable ... but essential.”⁷⁸

Robert Nilon, the Executive Vice President of Inter-Continental Promotions, Inc. began his testimony by discussing the catering business that he started with his two brothers. The business led the brothers into boxing.⁷⁹ Nilon testified that he thought Clay was a poor fighter with no chance of beating Liston.⁸⁰ Nilon observed “I didn’t think he had any more chance of beating Sonny Liston than if he were in the ring with Grandma Moses.”⁸¹

Samuel Margolis, a stockholder in Inter-Continental Promotions, Inc. discussed Frank Carbo and Blinky Palermo including the relationship between Palermo and Liston.⁸² Salvatore Avena, a member of the Board of Directors of Inter-Continental,⁸³ and Edward Lassman, the President of the World Boxing Association also appeared before the committee.⁸⁴

In 1965, hearings were held on six bills⁸⁵ introduced in the House

⁷⁵*Id.* at 1604–50 (testimony of Garland Cherry). For additional analysis, see SAMMONS, *supra* note at 18, at 180–83.

⁷⁶*Id.* at 1653 (testimony of Jack Nilon).

⁷⁷*Id.* at 1689, 1692–94 (testimony of Gordon B. Davidson).

⁷⁸*Id.* at 1695 (testimony of Gordon B. Davidson).

⁷⁹*Id.* at 1701–03 (testimony of Robert Nilon).

⁸⁰*Id.* at 1719–20 (testimony of Robert Nilon).

⁸¹*Id.* at 1720 (testimony of Robert Nilon).

⁸²*Id.* at 1748 (testimony of Samuel Margolis).

⁸³*Id.* at 1754–64 (testimony of Salvatore Avena).

⁸⁴*Id.* at 1765–89 (testimony of Edward Lassman).

⁸⁵See *Federal Boxing Commission: Hearings Before the Committee on Interstate and Foreign Commerce*, 89th Cong. (1965) [hereinafter *1965 Hearings*].

calling for the creation of a Federal Boxing Commission. Oren Harris of Arkansas introduced H.R. 8635⁸⁶ calling for a commission consisting of three members with the power to license individuals connected with the promotion or participation in televised boxing matches. The major feature of the legislation was the commission's ability to prevent broadcasting of any fight they found was influenced by bribery.

Once again Jack Dempsey was called before a congressional committee. Representative Frederick Rooney of Pennsylvania asked the ex-champion to comment on Rooney's attempt in Pennsylvania to pass a state law to outlaw boxing and on the degree of fatalities in boxing. Dempsey responded that accidents were common in all sports and noted that doctors were always at ringside and could step in to stop fights.⁸⁷

California Representative John Tunney, the son of former champion Gene Tunney, introduced a statement from his father in support of legislation creating a Federal Boxing Commission.⁸⁸ On his own behalf, Representative Tunney urged passage of the legislation, arguing that it was necessary for the sport to survive.⁸⁹

Joseph Miller, a former chairman of the District of Columbia Boxing Commission, called for the FBI to get involved in boxing where necessary.⁹⁰ Rocky Marciano, like Dempsey, returned to a congressional hearing to strongly encourage passage of the legislation.⁹¹ Fred Brooks, the President of Sportsvision, Inc., discussed closed-circuit television⁹² and spoke in support of the creation of a Federal Boxing Commission.⁹³ Melvin Krulewitch, the Chairman of the New York State Athletic Commission,⁹⁴ and Nat Fleischer of *Ring Magazine*⁹⁵ also offered their support for the legislation. Harry Markson, the Managing Director of Madison Square Garden, noted that

[w]e believe that boxing—honest, wholesome, competitive boxing—is a

⁸⁶H.R. 8635, 89th Cong. (1965).

⁸⁷1965 *Hearings*, *supra* note 84, at 39–40 (testimony of Jack Dempsey).

⁸⁸*Id.* at 43 (testimony of John Tunney).

⁸⁹*Id.* at 45 (testimony of John Tunney).

⁹⁰*Id.* at 52 (testimony of Joseph J. Miller).

⁹¹*Id.* at 61 (testimony of Rocky Marciano).

⁹²*Id.* at 86–89 (testimony of Frederic H. Brooks).

⁹³*Id.* at 116 (testimony of Frederic H. Brooks).

⁹⁴*Id.* at 104 (testimony of Melvin Krulewitch).

⁹⁵*Id.* at 119–28 (testimony of Nat Fleischer).

part of and belongs in the mainstream of American sports. Boxing has made innumerable contributions to the sports tradition of this Nation and it would be regrettable if it were allowed to pass from the national scene. But Federal legislation is imperative if the sports is to survive.⁹⁶

Constantine “Cus” D’Amato, the former manager of Floyd Patterson and light heavyweight champion Jose Torres, discussed licensing and promotion.⁹⁷ Sol Silverman, the Chairman of the California Committee for Boxing Safeguards, strongly supported the legislation.⁹⁸ Representatives Seymour Halpern of New York, Bernard Grabowski of Connecticut, and Bradford Morse of Massachusetts also urged passage of regulatory legislation.⁹⁹ Grabowski argued that “[a]s I see it ... American boxing as a sport is in danger of complete destruction unless a guarantee of honesty and sincerity of operation can be imposed.”¹⁰⁰ Arch Hindman, the Executive Secretary of the World Boxing Association, strongly endorsed the legislation, citing the Liston-Clay fight in Maine as proof of the “absolute need of a Federal Boxing Commission.”¹⁰¹ Despite all of this strong support from the boxing community, Congress refused to pass the legislation. As the uproar surrounding the Liston-Clay fights subsided, Congress turned its attention away from boxing.

A Congressional Hiatus Ends

Boxing returned to the consciousness of Congress twelve years later. The continued unsavory characteristics of the sport prompted a House subcommittee to hold hearings¹⁰² to investigate the production of the United States Boxing Championships by Don King Productions and the ABC television network. Despite concerns about King’s practices and his relationships with various boxers involved in the televised bouts for ABC, Congress could not muster enough interest to push to seriously consider a legislative response.

Two years later, the House Subcommittee on Labor Standards of the Committee on Education and the Workforce held hearings on March 28 and

⁹⁶*Id.* at 128 (testimony of Harry Markson).

⁹⁷*Id.* at 136 (testimony of Cus D’Amato). D’Amato would play a key role in the early career of Mike Tyson.

⁹⁸*Id.* at 151 (testimony of Sol Silverman).

⁹⁹*Id.* at 155–64 (testimony of Seymour Halpern, Bernard Grabowski, and Bradford Morse).

¹⁰⁰*Id.* at 157 (testimony of Bernard Grabowski).

¹⁰¹*Id.* at 164 (testimony of Arch Hindman).

¹⁰²See *TV Network Sports Procurement and Programming Practices: Hearings Before the Subcommittee on Commerce of the House Committee on Interstate and Foreign Commerce*, 89th Cong. 16 (1977).

29, and April 3, 1979¹⁰³ to consider the proposed Federal Boxing Control Act of 1979.¹⁰⁴ This legislation called for the creation of a three-member Federal Boxing Board. The board would register boxers and investigate matches to determine if bribery, racketeering, or other use of influence surrounded a fight. The board would be granted broad powers to subpoena individuals having information about corruption in boxing matches. The proposed legislation also provided a strong safety feature by establishing a thirty-day suspension from fighting for any boxer who suffered a knockout or technical knockout.

The 1980s

The 1980s produced a steady stream of bills focused on establishing a federal commission or board to promote uniform state standards involving licensing of fighters. The bills also emphasized health and safety standards. Two separate House subcommittees held hearings in 1983.¹⁰⁵ Representative James J. Florio proposed legislation¹⁰⁶ to be considered by the House Subcommittee on Commerce, Transportation and Tourism of the Committee on Energy and Commerce. Florio's act would have created a Congressional Advisory Commission on Boxing with the charge of forwarding to Congress recommendations on uniform federal standards for the sport. The Commission's main focus would be licensing and safety matters. The Speaker of the House of Representatives and the Senate Majority Leader would establish a ten-member Advisory Commission to consider the needs of the sport and report its findings to Congress.

New Mexico Representative Bill Richardson offered an expanded treatment of Florio's bill.¹⁰⁷ Richardson's proposal was forwarded to the Committee on Education and Labor. On March 2, 1983, Representative Pat Williams joined the action with H.R. 1751, the Federal Boxing Protection Act of 1983,¹⁰⁸ calling for the creation of a Federal Boxing Commission in the Department of Labor. Williams proposed a five-person commission charged with promoting uniform safety measures. The savagery of the sport

¹⁰³See *Hearings on the Creation of a Federal Boxing Board: Hearings Before the Subcomm. on Labor Standards of the House Comm. on Education and Labor*, 96th Cong. (1979).

¹⁰⁴H.R. 2726, 96th Cong. (1979).

¹⁰⁵See *Boxing Reform: Hearings Before the Subcomm. on Commerce, Transportation, and Tourism of the House Comm. on Energy and Commerce*, 98th Cong. (1983); *Federal Boxing Protection Act of 1983: Hearings Before the Subcomm. on Labor Standards of the House Comm. on Education and Labor*, 98th Cong. (1983).

¹⁰⁶H.R. 1778, 98th Cong. (1983).

¹⁰⁷H.R. 2498, 98th Cong. (1983).

¹⁰⁸H.R. 1751, 98th Cong. (1983).

even led to a proposal to completely ban professional boxing.¹⁰⁹

In 1985, H.R. 1689¹¹⁰ and H.R. 2127¹¹¹ were introduced. H.R. 1689 would have established an American Boxing Corporation to regulate the sport and to promote safety measures. Of particular note was the corporation's ability to create model state standards. The Corporation would include six members appointed by the President with the consent of the Senate. H.R. 2127 was introduced by Congressman Richardson creating a sixteen-member United States Boxing Commission. As with earlier proposals, the commission would be charged with establishing safety and health mechanisms for boxers. Hearings on the proposal were conducted by the Subcommittee on Commerce, Transportation and Tourism of the House Committee on Energy and Commerce on.¹¹²

Representative Richardson offered similar legislation in the following year.¹¹³ Again, the proposal called for the creation of a United States Boxing Corporation focusing on establishing model state standards. The nonprofit corporation would create a national registry with information on all fighters including their medical information, their bout records, and the personnel surrounding their careers. The corporation would also oversee the creation of a state certification process. The House passed Richardson's bill, but the Senate did not consider the matter.

The following January, Congressman Byron Dorgan introduced the Federal Boxer Protection Act of 1987.¹¹⁴ Representative Dorgan's proposal authorized the Department of Labor to oversee a mandatory state system.

The 1990s

The beginning of a new decade prompted the introduction of three bills in the 101st Congress.¹¹⁵ Although Congress again seemed disinterested in measures focusing on the health and safety of professional pugilists, momentum was beginning to build towards eventual enactment of an act. During the next congressional session, Congressman Richardson proposed H.R. 5407, the United States Boxing Commission Act of 1992,¹¹⁶

¹⁰⁹H.R. 6359, 98th Cong. (1984).

¹¹⁰H.R. 1689, 99th Cong. (1985).

¹¹¹H.R. 2127, 99th Cong. (1985).

¹¹²See *Professional Sports: Hearings Before the Subcommittee on Commerce, Transportation and Tourism of the House Committee on Energy and Commerce*, 99th Cong. (1985).

¹¹³See H.R. 5654, 99th Cong. (1986).

¹¹⁴See H.R. 134, 100th Cong. (1987).

¹¹⁵See H.R. 2129, 101st Cong. (1989), H.R. 2231, 101st Cong. (1989), H.R. 2398, 101st Cong. (199).

¹¹⁶H.R. 5407, 102d Cong. (1992).

that again would have created a regulatory body with the Department of Labor. The commission's responsibilities included a national database of registered fighters,¹¹⁷ health and safety standards,¹¹⁸ and a measure to control conflicts of interest regarding boxers, managers and promoters.¹¹⁹ Representative Richardson's bill also addressed the commission's relationship to various state boards.¹²⁰

In the same Congress, Delaware Senator Bill Roth introduced S.2852, the Professional Boxing Corporation Act of 1992,¹²¹ while Congressman Major Owens submitted a companion bill¹²² in the House. Roth's interest was prompted by an Atlantic City, New Jersey, fight between International Boxing Federation (IBF) middleweight champion James Toney and Delaware native Dave Tiberi. Toney was declared a split-decision winner despite ringside opinion that Tiberi was a clear winner.¹²³ Both Roth and Owens' bills called for the establishment of a Professional Boxing Corporation to oversee the actions of state boards. The Professional Boxer Protection Act¹²⁴ was also introduced. The 102nd Congress followed a now-familiar pattern and failed to act on any of the proposals.

The following year, Congressman Owens introduced the Boxing Safety, Retirement, and Restraining Act of 1993,¹²⁵ again calling for the establishment of a Professional Boxing Corporation, but this time with the addition of a Professional Boxing Advisory Board. The board would have encouraged states to join together to establish a Congress of State Boxing Administrators. The Congress would oversee rules revisions and promote safety and health measures.¹²⁶ Senator Roth and Representative Richardson also returned to the fray with modified proposals entitled the Professional Boxing Corporation Act of 1993.¹²⁷

Senators John McCain and Richard Bryan sponsored the Professional Boxing Safety Act¹²⁸ in March 1994. A similar House version was introduced by New Jersey Representative Robert Torricelli.¹²⁹ McCain focused his concerns on the health and safety measures of "journeymen

¹¹⁷See *id.* at § 8(c).

¹¹⁸See *id.* at § 5.

¹¹⁹See *id.*

¹²⁰See *id.* at § 6.

¹²¹S.2852, 102d Cong. (1992).

¹²²See The Professional Boxing Corporation Act of 1992, H.R. 5524, 102nd Cong. (1992).

¹²³See McCain & Nahigian, *supra* note 5, at 15–16.

¹²⁴H.R. 5813, 102d Cong. (1992).

¹²⁵H.R. 3311, 103d Cong. (1993).

¹²⁶See *id.* at § 7(b).

¹²⁷H.R. 2607, 103rd Cong. (1993), S. 1189, 103rd Cong. (1993).

¹²⁸S. 1991, 103rd Cong. (1993).

¹²⁹See H.R. 4753, 103rd Cong. (1993).

boxers.”¹³⁰ Together with McCain and Byran’s proposed legislation, the House received a bill entitled the Boxing Labor Standards Act.¹³¹ Despite McCain’s avid interest, the 103rd Congress failed to pass any of these proposals; however, McCain’s enthusiasm for regulation of the boxing industry would ultimately pay dividends two years later when Congress would finally enact legislation after three and one-half decades of consideration of the sport.

The Professional Boxing Safety Act,¹³² requiring boxers to wear headgear, and the Boxing, Safety, Retirement and Restraining Act of 1995¹³³ were proposed in the House during the 104th Congress. McCain and Bryan reintroduced their Professional Boxing Safety Act¹³⁴ on January 10, 1995.¹³⁵ Joint hearings were held on June 11, 1996, with testimony provided by boxers Tim Witherspoon and Tony Thornton, for state athletic commission officials, and Dr. Charles Wilson.¹³⁶ Representative Pat Williams and Major Owens joined Senators McCain and Bryan as witnesses supporting passage of the bills. The legislation was signed by President Clinton on October 9, 1996.

The Professional Boxing Safety Act of 1996¹³⁷

Section 3 of the Professional Boxing Safety Act of 1996 announced the congressional purposes: “(1) to improve and expand the system of safety precautions that protects the welfare of professional boxers; and (2) to assist State boxing commissions to provide proper oversight for the professional boxing industry in the United States.”¹³⁸ Section 4 of the Act¹³⁹ disallows anyone from holding or participating in a bout in a state without a commission. Fights in such states require the supervision of another state’s boxing commission that is subject to the guidelines of the Association of Boxing Commissions.

Safety standards are addressed in section 5 of the Act,¹⁴⁰ and boxers must be declared “physically fit” by a physician after an examination prior

¹³⁰S. 1991, 103rd Cong. (1993).

¹³¹H.R. 4900, 103rd Cong. (1993).

¹³²H.R. 1150, 104th Cong. (1995).

¹³³H.R. 1845, 104th Cong. (1995).

¹³⁴S. 187, 104th Cong. (1995).

¹³⁵See McCain & Nahigian, *supra* note 5, at 19.

¹³⁶See *Professional Boxing Safety Act: Joint Hearings Before the Subcomm. on Commerce, Trade, and Hazardous Materials of the Senate Commerce Comm. and the Subcomm. on Workforce Protections of the House Economic and Educational Opportunities Comm.*, 104th Cong. (1996).

¹³⁷For an analysis of the Professional Boxing Safety Act of 1996, see April R. Anderson, Comment, *The Punch That Landed: The Professional Boxing Safety Act of 1996*, 9 MARQ. SPORTS L.J. 191 (1998) and Kelley C. Howard, *Regulating the Sport of Boxing: Congress Throws the First Punch with the Professional Boxing Safety Act*, 7 SETON HALL J. SPORT L. 103 (1997).

¹³⁸15 U.S.C. § 6302 (2000).

¹³⁹*Id.* § 6303.

¹⁴⁰*Id.* § 6304.

to the bout. Furthermore, an ambulance or medical personnel and a physician must be continuously present during the fight and each boxer must have health insurance that covers “any injuries sustained in the match.”¹⁴¹

One of Senator McCain’s primary objectives is contained in section 6¹⁴² requiring registration and the issuance of an identification card. The card must contain a photograph, the boxer’s social security number, and a personal number assigned through a boxer registry certified by the Association of Boxing Commissions. The card must be presented to the appropriate state commission by the time of the weigh-in for the fight.¹⁴³

Section 7¹⁴⁴ establishes the procedures for each state commission “to evaluate the professional records and physician’s certification of each boxer participating in a professional boxing match ... and to deny authorization for a boxer to fight where appropriate.”¹⁴⁵ Suspension under the procedures involve knockouts or a series of consecutive loses, certain injuries, failure of a drug test, or the use of false names or false identification cards.¹⁴⁶ Section 9¹⁴⁷ of the Act covers conflicts of interest, and section 10¹⁴⁸ provides enforcement procedures covering both criminal penalties and allowing the Attorney General of the United States to seek injunctive relief whenever “reasonable cause” exists that an individual’s behavior violates the Act.¹⁴⁹ Section 12 requests that the Secretary of Labor “conduct a study on the feasibility and cost of a national pension system for boxers.”¹⁵⁰ The following section covers fights on Indian reservations.¹⁵¹

Muhammad Ali Boxing Reform Act¹⁵²

Senator McCain began pushing in the next Congress for amendments to the Professional Boxers Safety Act of 1996 with the introduction of the Muhammad Ali Boxing Reform Act of 1998.¹⁵³ While the 1996 Act focused on protection of boxers inside the ring, the enactment constituted “only the first phase of reform.”¹⁵⁴ McCain and Bryan’s proposed

¹⁴¹*Id.* § 6304(4).

¹⁴²*Id.* § 6305.

¹⁴³*Id.* § 6305(3).

¹⁴⁴*Id.* § 6306.

¹⁴⁵*Id.* § 6306(a)(1).

¹⁴⁶*Id.* § 6306(a)(2).

¹⁴⁷*Id.* § 6308.

¹⁴⁸*Id.* § 6309.

¹⁴⁹*Id.* § 6309(a).

¹⁵⁰*Id.* § 6311.

¹⁵¹*Id.* § 6312.

¹⁵²For a critique of the Muhammad Ali Boxing Reform Act, see Devin J. Burstein, Note, *The Muhammad Ali Boxing Reform Act: Its Problems and Remedies, Including the Possibility of a United States Boxing Administration*, 21 *CARDOZO ARTS & ENT. L.J.* 433 (2003) and Christina E. Groschel, Note & Comment, *Down for the Count: The Muhammad Ali Boxing Reform Act and Its Shortcomings*, 26 *NOVA L. REV.* 927 (2002).

¹⁵³S. 2238, 106th Cong. (1998).

¹⁵⁴See McCain & Nahigian, *supra* note 5, at 20.

Muhammad Ali Act focused on the continued exploitation of boxers beyond the ring.¹⁵⁵

The Senate Committee on Commerce, Science, and Transportation held a hearing on July 23, 1998.¹⁵⁶ Trainer Eddie Futch, Larry Hazard (the Commissioner of the New Jersey Athletic Control Board), Marc Ratner and James Nave of the Nevada Athletic Commission, Jose Sulaiman (the President of the World Boxing Council), and Walter Stone (the General Counsel of the International Boxing Federation) appeared before the committee.¹⁵⁷ The McCain-Bryan proposal was favorably reported out of committee on October 6, 1998.¹⁵⁸ When the House failed to consider the proposal, McCain and Bryan reintroduced their proposed legislation in the 106th Congress.¹⁵⁹ The Senate Committee on Commerce, Science, and Transportation held a hearing on April 22, 1999.¹⁶⁰ Witnesses included New York Attorney General Eliot Spitzer, Gregory Sirb (the President of the Association of Boxing Commissions), referee Mills Lane, sportswriter Wallace Matthews, Walter Stone (the Counsel for the International Boxing Association), and Dan Goosen (the President of America Presents).¹⁶¹ The House Committee on Commerce held a hearing on a companion bill¹⁶² on June 29, 1999.¹⁶³ Witnesses including Gregory Sirb, Dan Goosen, middleweight fighter Alfonso Daniels, Arlen Bynum (the General Counselor at Large of the World Boxing Council), and Tony Holden (the President of Next Media and Holden Productions).¹⁶⁴ While these two bills were working their way through the committees, the Professional Boxing Safety Act Amendments of 1999¹⁶⁵ was also introduced in the Senate while the Professional Boxing Integrity Act¹⁶⁶ was introduced in the House. The House and Senate both issued reports recommending passage of the Muhammad Ali Boxing Reform Act.¹⁶⁷

The congressional findings noted the lack of a central governing body for boxing similar to the professional sports leagues, the importance of allowing state officials to regulate the sport, the ability of promoters to take advantage of states with weaker regulations, the susceptibility of manipulation of ratings of fighters by numerous sanctioning organizations, and the

¹⁵⁵*See id.*

¹⁵⁶*See Muhammad Ali Boxing Reform Act, S. 2238: Hearing Before the Senate Comm. on Commerce, Science, and Transportation, 105th Cong. (1998) [hereinafter 1998 Hearing].*

¹⁵⁷*Id.*

¹⁵⁸S. REP. NO. 105-371 (1998); *see also* McCain & Nahigian, *supra* note 5, at 22.

¹⁵⁹S. 305, 106th Cong (1998).

¹⁶⁰*See Muhammed Ali Boxing Reform Act: Hearing Before the Comm. on Commerce, Science, and Transportation, 106th Cong. (1999).*

¹⁶¹*Id.*

¹⁶²*See* H.R. 1832, 106th Cong. (1998).

¹⁶³*See 1998 Hearing.*

¹⁶⁴*Id.*

¹⁶⁵S. 143, 106th Cong. (1998).

¹⁶⁶H.R. 1230, 106th Cong. (1998).

¹⁶⁷H.R. REP. NO. 106-449 (1999), S. REP. NO. 106-83 (1999).

ability of sanctioning organizations and promoters to restrain trade.¹⁶⁸

The stated purposes of the Ali Act are:

(1) to protect the rights and welfare of professional boxers on an interstate basis by preventing certain exploitive, oppressive, and unethical business practices; (2) to assist State boxing commissions in their efforts to provide more effective public oversight of the sport; and (3) to promote honorable competition in professional boxing and enhance the overall integrity of the industry.”¹⁶⁹

A major component of the Ali Act was the requirement that the Association of Boxing Commissions create guidelines for minimum contractual provisions.¹⁷⁰ Congress noted its desire that state commissions follow the guidelines, but the Act does not require compliance.¹⁷¹ Section 10 of the Act provides protection from coercive contracts including long-term contracts.¹⁷² Section 11 of the Act covers the actions of sanctioning bodies and requires the Association of Boxing Commissions to develop “guidelines for objective and consistent written criteria for the ratings of professional boxers” and forces sanctioning bodies to explain the reasons for the any changes in the rankings of boxers.¹⁷³ Section 12 of the Act requires sanctioning bodies to provide certain financial information to state commissions.¹⁷⁴ Disclosures by promoters are contained in section 13 of the Act,¹⁷⁵ and the following section covers disclosures for judges and referees.¹⁷⁶

Another major provision of the Ali Act concerns conflicts of interest between promoters and managers as well as sanctioning organizations.¹⁷⁷ However, the section only covers the upper echelon of the sport, fighters boxing in matches of ten rounds or more.¹⁷⁸

The enforcement provisions are contained in section 6 of the Act.¹⁷⁹ Individuals found guilty of violating the Act can be imprisoned for not more than one year or fined up to \$100,000 for any fight involving gross revenue below \$2,000,000.¹⁸⁰ Fines can be increased for “big-money” fights. Claims under the enforcement section can be brought by the United States Attorney General, state attorneys general, and individual boxers who suffer economic injury.¹⁸¹

¹⁶⁸Pub. L. No. 106-210, § 2 (findings), 114 Stat. 321 (2000).

¹⁶⁹*Id.* § 3, 114 Stat. 322 (2000).

¹⁷⁰*Id.* § 6307(a).

¹⁷¹*Id.*

¹⁷²*Id.* § 6307(b).

¹⁷³*Id.* § 6307(c).

¹⁷⁴*Id.* § 6307(d).

¹⁷⁵*Id.* § 6307(e).

¹⁷⁶*Id.* § 6307(f).

¹⁷⁷*Id.* § 6308.

¹⁷⁸*Id.*

¹⁷⁹*Id.* § 6309.

¹⁸⁰*Id.*

¹⁸¹*Id.*

Conclusion

The direct congressional interest with boxing now spans four decades, and despite the passage of the Professional Boxing Safety Act of 1996 and the Muhammad Ali Boxing Reform Act, critics still argue that the federal government has done little to truly create effective regulation of the sport.¹⁸² Senator McCain remains vigilant in his efforts to see improvements in the existing legislation passed by Congress.¹⁸³

Boxing is perhaps destined to endure greater controversy than many sports because of its history and nature. While the sheer brutality is always close to the surface, many Americans continue to be fascinated by the fundamental nature of one human being fighting against another. Congressional fascination in a good fight is also likely to continue.

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¹⁸²See Burstein, *supra* note 152; Groschel, *supra* note 152; Arlin R. Crisco, Note, *Fighting Outside the Ring: A Labor Alternative to the Continued Federal Regulation of Professional Boxing*, 60 OHIO ST. L.J. 1139 (1999).

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