

FOREWORD

In our first article, Professor Vincent D. Rougeau observes that credit card indebtedness among American consumers has risen dramatically over the last twenty years. This same twenty-year period, he notes, has also witnessed legal changes that have made credit card lending exempt from the usury laws of most states. These developments, among others, have made credit card operations one of the most profitable aspects of the banking business. Professor Rougeau argues that the benefits of usury limitations in the credit card market have been ignored because they are not necessarily consistent with popular versions of liberal economic theory that have been used to support market deregulation in the banking industry. He concludes that a federal floating cap on credit card interest rates should be imposed to force the credit card market to operate in the context of social values broader than those of the marketplace.

In our second article, Professor Kenneth L. Shropshire argues that increased racial diversity in sports franchise ownership would help reduce social and economic discrimination both within sports franchises and in society in general. He submits that increased diversity will allow franchise owners to be more responsive to the concerns of minority players and will help combat the racist image of the current, predominantly white ownership. Professor Shropshire then explores the role that legislatures and judiciaries can play in bringing about such diversity. He concludes that legislators and judges are constitutionally constrained and can offer only limited assistance in compelling diversity of franchise ownership. As a result, Professor Shropshire offers nonlegal solutions to help increase minority ownership of professional sports franchises.

In our third piece, Professor Richard Delgado and Jean Stefancic review Richard Abel's recent book *Speech and Respect*, in which Mr. Abel advocates an informal apology as a solution to speech-based harms. Delgado and Stefancic find that while *Speech and Respect* is a welcome addition to the hate-speech literature, Abel's proposed remedy falls short for several reasons. After providing an overview of the hate-speech controversy, the authors assert that the remedy of an apology trivializes the harms of hate speech and ignores the power dimension present in speech invective. Moreover, the authors argue that the apology

proceedings suggested by Abel suffer from both practical and theoretical problems inherent in the nature of an apology. They conclude that a formal proceeding would more effectively remedy speech-based harms.

In our first Comment, the author analyzes professional baseball's long-standing exemption from federal antitrust laws and the implications of repealing the exemption. The author first examines the scope and effect of the antitrust exemption, tracing the history of the United States Supreme Court's unique treatment of professional baseball. The author next analyzes recent developments affecting the exemption, including federal court decisions, the 1994-95 players' strike, and the probability of congressional action overturning the exemption. The author then analyzes the possible effects that repealing the exemption will have on the future of professional baseball and collective bargaining law in the sport. Finally, the author concludes that the exemption should be eliminated entirely or, in the alternative, that courts should narrowly construe the exemption.

In our second Comment, the author examines the merits of Colorado's "Unlawful Prohibition of Legal Activities as a Condition of Employment" statute. The statute was passed primarily for the protection of smokers in the workplace, but, as the author observes, its broad language can encompass a variety of litigants beyond the class of smokers. The author argues that the statute represents a vast expansion of traditional Colorado employment law and points to cases from other jurisdictions to illustrate the breadth of that expansion. The author concludes that the statute erodes the state's employment law in a manner that is both over- and underinclusive and that results in an enormous burden for employers. Finally, the author points out that the statute fails to achieve effectively its primary goal of protecting smokers.

In our final Comment, the author examines the Colorado Charter Schools Act in light of that state's constitutional provision vesting "control of instruction" in the directors of local boards of education. The author finds that, although the Act purports to direct compliance with that constitutional provision, much of its language evinces a basic disregard for the local boards' constitutionally prescribed powers and opens the door to constitutional transgressions of their authority. The author concludes, however, that the Act need not inevitably be unconstitutional in its application, so long as local boards are able to maintain "control of instruction" in the charter schools in their respective districts

at all times. The author suggests that this might be accomplished most effectively by an amendment to the Act. Finally, the author emphasizes that the Colorado Board of Education, when exercising its power to reverse and remand decisions of local boards as to charter schools, must make certain that none of its own decisions are based on any factor within the ambit of "instruction."

THE EDITORS

