

CONCUSSIONS: FOOTBALL'S SILENT PARTNER AND PLAYER KILLER

**JAMES T. GRAY, ASSOCIATE PROFESSOR, MARIAN
UNIVERSITY, SPORT AND RECREATION MANAGEMENT**

**NATIONAL SPORTS LAW INSTITUTE'S SPORTS LAW
ALUMNI ASSOCIATION**

JULY 11, 2014



In Honor of Louis Jolliet & Pere Jacques Marquette

HOW MY BRAIN WORKS

- **Learning Without Thought Means Labor Lost; Thought Without Learning Is Perilous. - Chinese Proverb.**
- **Experiment in “The Truth.” One Can and Should Test “The Truth.” It All Depends On the Issues Presented and the Questions Asked.**
- **Legal Standard: “What Is Reasonable In Order to Protect the Best Interest of the Player?”**
- **All Man’s Troubles Arise From The Fact That We Do Not Know What We Are and Do Not Agree On What We Want To Be. From “You Shall Know Them” by Vercours a.k.a. Jean Bruller (1953).**

ISSUE...

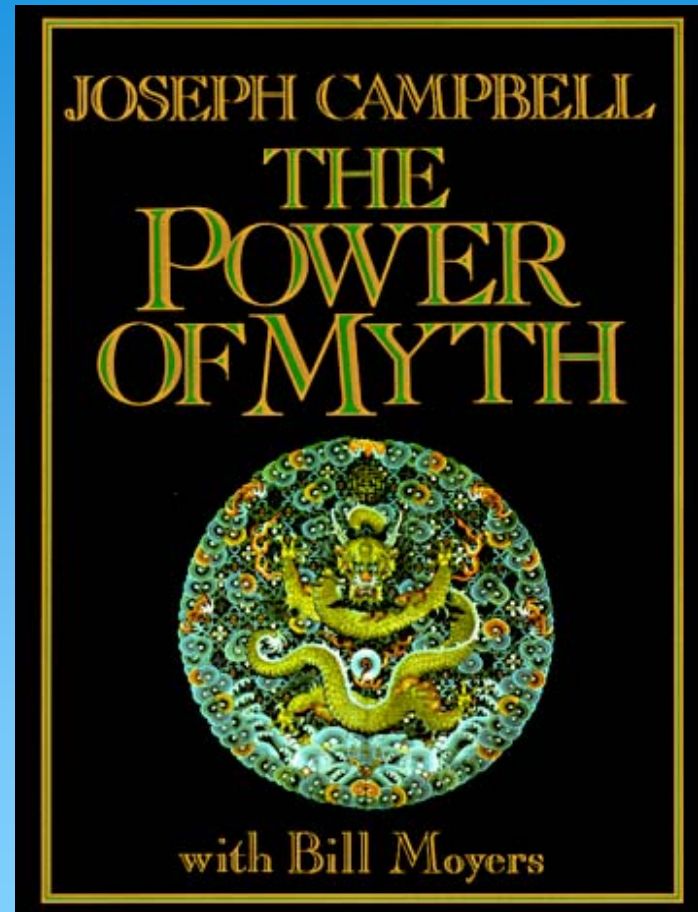
***Would you feel comfortable
watching someone you love play
football?***

PRESENTATION OVERVIEW

- **The Hero Journey – Journey From Boyhood to Manhood.**
- **President Theodore Roosevelt and Football's First Major Crisis.**
- **Football's Current Crisis: From Concussions and To Dementia.**

The Hero Journey

“To Win In Style, Not From Sheer Boredom. To Win In a Flourish. Beating The Other Lot, Not Die of Boredom.” – Danny Blanchflower, 1961 Tottenham Hotspur Captain Whose Team Won “The Double”



Joseph Campbell and The Power of Myth: *The Hero*

http://www.youtube.com/watch?v=SBbt_bIDEg0

Carol Gilligan

in a different voice



**“People lose their voice and either become dead or flat.”
- Carol Gilligan**

Journey From Boyhood To Manhood Summary

- **Death**
- **Resurrection**
- **Repeat**

Maslow's Hierarchy of Needs



UNIFIES THE NATION

NATIONAL TRAGEDY

- Pearl Harbor
- September 11th

SPORTS EVENTS

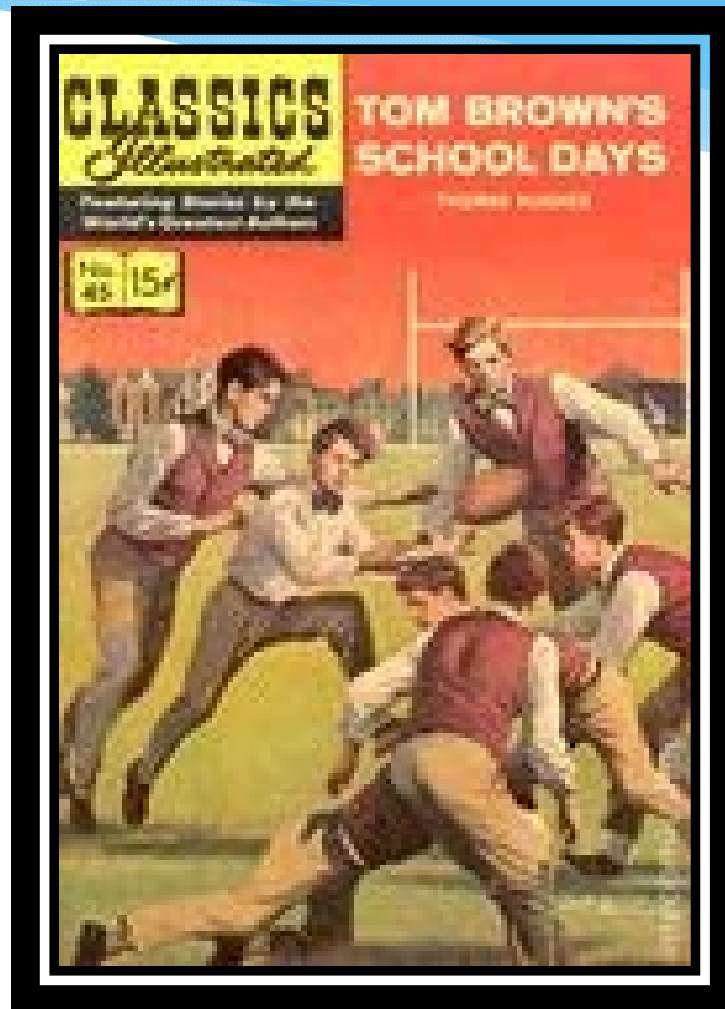
- Super Bowl
- Bowl System

The Savior of Football



Photograph of President Theodore Roosevelt

Muscular Christianity & Tom Brown's School Days



Congressmen Landis Sees One Game and Says Football is a “Bum Sport” ...

“I saw a game of football last Saturday. Several hundred people who witnessed it said it was sport. I guess I’m old fashioned, for I have to confess that this sport does not appeal to me. Sport that necessitates the presence of physicians – well that is simply another evidence that the brutal instincts of men and women will crop out.

Early in the contest one of the captains was carried off the field insensible and the game went on. This is sport.

There was not a boy in the game who did not run the risk of receiving an injury that would send him through life as a hopeless cripple. Now this may be sport, but does it pay to take the chances? Should an alleged sport that necessitates taking the chances receive the sanction and encouragement of sane and sensible people? Possibly so. I desire to register my opinion, however, that dog fighting, cock fighting and bull fighting are Sabbath school games in comparison with modern football.”

Source: The Salt Lake Herald, Sunday, October 15, 1905.

ESPN “JACKED UP”

<http://www.youtube.com/watch?v=XLBqFpxI-IE>

SPORTS SCIENCE: CONCUSSIONS

<http://www.youtube.com/watch?v=fFkWTGKNLT8>

ROLE OF THE LAW TO CREATE SOCIAL CHANGE

- **What is the problem to be solved?**
- **How does law contribute to the problem?**
- **How could law be substantively changed or otherwise leveraged to redress the problem?**
- **What is the most effective strategy for changing (or leveraging) the law and where is the most appropriate?**
- **Venue—courts, legislatures, or the grassroots? How can these strategies be combined?**

NFL CBA

Article 58 Key Provisions – The “88 Plan”

- **Vested due to their Credited Seasons or their total and permanent disability under the Bert Bell/Pete Rozelle NFL Player Retirement Plan.**
- **Covers former players suffering from Dementia, ALS and or Parkinson’s disease.**
- **Upon diagnosis, total payments shall not exceed \$100,000 in any year, and \$130,000 beginning with the 2016 League Year.**
- **Funded by NFL Clubs.**

NFL CONCUSSION LAWSUITS

- **What did the NFL know and when did they know it?**
- **Should concussion disputes be decided pursuant to the NFL CBA or litigation? Factual Questions? Contractual Interpretation?**
- **How much money is required for reasonable medical treatment?**

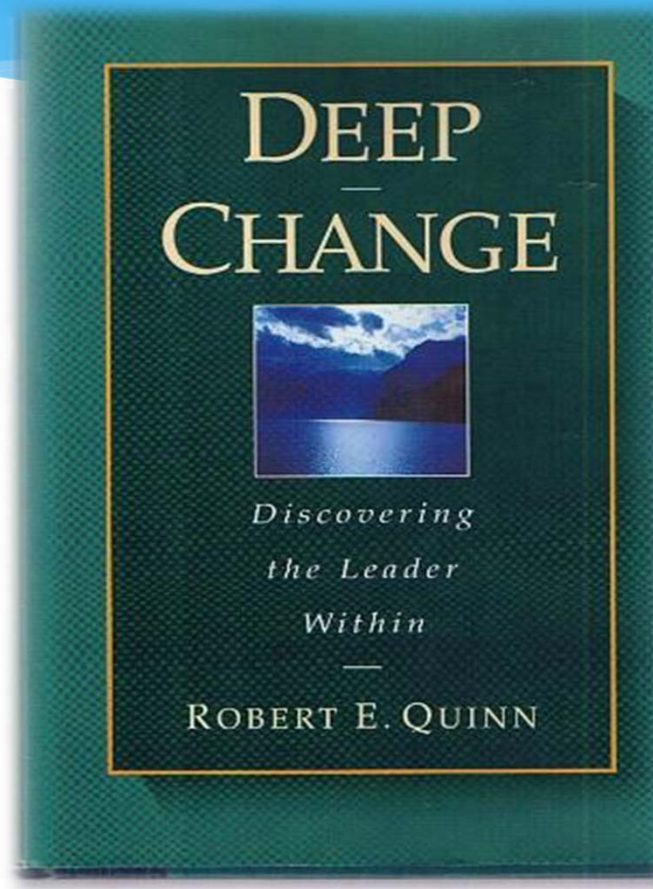
COLLEGE FOOTBALL CONCUSSION LAWSUITS

- **Should college football players unionize in order to obtain medical care?**
- **Who is going to pay for concussion related medical treatment? Cash? Medical Monitoring?**
- **Which injured players should be covered regarding the concussion litigation?**

GRAY'S CONCLUSION

- **Ban Football.**
- **Ban Helmets.**
- **Improve Coaching.**
- **Rule Changes.**
- **Expand Rosters.**
- **Limit Contact During Practice.**
- **Cumulative Hit Counts.**
- **Permit Young People to Start Football During Adolescence.**
- **Informed Consent. Life is Hazardous. Automobiles. Alcohol. Tobacco.**
- **Game Will Evolve.**

GRAY'S CONCLUSION...



Would you feel comfortable watching a loved one play football?

Annotated Bibliography

1. The Big Scrum: How Teddy Roosevelt Saved Football by John J. Miller. 2011. 258 pages. <http://www.amazon.com/The-Big-Scrum-Roosevelt-Football/dp/B00A1ADGPA>.
2. The Concussion Crisis: Anatomy of a Silent Epidemic by Linda Carroll. Read by David Rosner and Pam Ward. 2011. 12 hours and 29 minutes. <http://dbooks.wplc.info/F6EDD091-0C23-4E29-BD9C-27F3D74AD626/10/50/en/ContentDetails.htm?id=8A088099-3808-485A-B5FF-E87A522F807A#descExpand>.
3. In a Different Voice by Carol Gilligan. 1982. 1993. 216 pages. <http://www.amazon.com/In-Different-Voice-Psychological-Development/dp/0674445449>.
4. The Power of Myth by Joseph Campbell with Bill Moyers. 1988. 293 pages. http://www.amazon.com/The-Power-Myth-JosephCampbell/dp/0385418868/ref=sr_1_1?ie=UTF8&qid=1404225139&sr=8-1&keywords=power+of+myth+campbell.
5. Technopoly: The Surrender of Culture to Technology by Neil Postman. 1993. 240 pages. <http://www.amazon.com/Technopoly-The-Surrender-Culture-Technology/dp/0679745408>.
6. The Disappearance of Childhood by Neil Postman. Read by John Riggerbach. 1982. 2007. 5 hours and 57 minutes. <http://dbooks.wplc.info/F6EDD091-0C23-4E29-BD9C-27F3D74AD626/10/50/en/ContentDetails.htm?id=73B36AB7-0F15-4CD9-9418-A3020A4B77D1>.

Annotated Bibliography

Sport Based Concussion Documents

1. National Football League Collective Bargaining Agreement. August 4, 2011. 316 pages. <http://nflabor.files.wordpress.com/2010/01/collective-bargaining-agreement-2011-2020.pdf>.
2. 2013-14 National Collegiate Athletic Association Sports Medicine Handbook. Twenty fourth edition. 2014. Compiled by David Klossner, Director of the NCAA Sports Science Institute. 140 pages. <https://www.princeton.edu/uhs/pdfs/2013-14-NCAA-SportMedicine-Handbook.pdf>. NCAA Guideline 21 addressed sports related concussions.

Concussion Video Documentary

1. League of Denial: The NFL's Concussion Crisis. Public Broadcasting System Frontline Documentary. 114 minutes. 2013. <http://www.pbs.org/wgbh/pages/frontline/league-of-denial/>.

Legal Documents

1. In The Matter of New Orleans Saints Pay For Performance/"Bounty," Paul Tagliabue, Arbitrator, December 11, 2012. http://espn.go.com/photo/preview/121211/espn_bountyruling.pdf. This arbitration decision evaluated the culture of brutality as found in the National Football League. In Re: National Football League Players' Concussion Litigation MDL No. 2323 (E.D. Pa. 2014). These are the court documents connected with the injured National Football League player class action lawsuit. http://nflconcussionlitigation.com/?page_id=18.
2. In Re: National Collegiate Athletic Association Student-Athlete Concussion Injury Litigation MDL No. 2492 (N.D. Ill. 2014). These are the court documents connected with the injured National Collegiate Athletic Association player class action lawsuit. http://nflconcussionlitigation.com/?page_id=18.