

or she had that bias, that person could still be the investigator, as was the case against Tarkanian. That person's findings would be given over to their committee on infractions, as was done with Tarkanian. The infractions committee upheld those findings. Tarkanian and the university appealed them to the NCAA council, where appeals have to be taken now, and all of those findings were upheld. There was no basis for an appeal further through the NCAA, so that is when Tarkanian went into court. Through some complicated legal maneuverings it wound up in federal court, because the NCAA wanted it moved there, and you can do this if the case is between parties from other states, different states. It was out of that federal action that the decision came down that I mentioned to you in the beginning, that the U.S. constitutional guarantee of due process cannot be imposed on a private association. The only way you get at the conduct of private individuals and private associations is by means of state statutes. And this is why we have laws governing hospitals, businesses, organizations, clubs, every kind of private association, organization or gathering that there can be. The bill is very simple in what it does, and it is so simple and direct that to explain it further would tend to make it more complicated than it is. So having said everything I have thus far, I'm going to restate now categorically what the bill does. It says that any time the NCAA conducts proceedings that could result in a punishment being imposed against the university or any individual connected with the university, those proceedings have to be conducted in accord with due process. If the NCAA fails to do this, and would impose a punishment that would result in the university losing money, the university can then go into court, and if it wins and shows that the NCAA did violate this law, did impose a punishment in violation of due process, Senator Barrett, I'm almost through, but I want it in the record, then the university could go to court and the measure for damages would be based on what the university had earned the previous year. The reason I wanted to put a standard of damages is because it is speculative as to how much they would earn in the year that say they might not be allowed to play, or for a bowl game that they were prevented from attending. So by basing it on what they have earned the previous year and pro-rating that amount to cover the period of time that they were under this punishment in violation of the law, you come up with a measure for the court to use in assessing the damages that the university could win. Now that may not be easy to understand, as I've said it, but when the transcript is produced, if you want to read it over, it will be