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Foreword

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In this issue of the *Review*, we are pleased to present Professor William G. Coskran's exhaustive study of California's law on commercial leasehold transfer restrictions. The Article was prepared for use by the California Law Revision Commission to provide it with background information for its study of the subject. Professor Coskran further explains the purpose and scope of his study in the Preface to the Article.

Our second Article focuses on the problem of "opportunistic" sports franchise relocations. Professional sports leagues in recent years have found it increasingly difficult to control team franchise relocations. Although the constitutions and by-laws of the various leagues prohibit franchise relocation without prior league approval, litigation resulting in large antitrust awards against the leagues has encouraged opportunistic relocations. The author, Professor Kenneth L. Shropshire, demonstrates how current law assists franchises in circumventing league relocation rules. The author contends that the league-franchise relationship is a fiduciary one and proposes that punitive damages should play a role in deterring "franchise free agency" and opportunistic takings of league-developed geographic franchise opportunities. Professor Shropshire concludes that punitive damages in league-franchise relocation disputes would deter unreasonable actions by franchises and leagues alike.

In this issue we are also pleased to publish one Comment and two Notes written by members of the *Review*. The Comment considers the "foreign country exception" to the Federal Tort Claims Act (FTCA). Congress enacted the FTCA to allow claimants to recover against the United States in ordinary tort situations by limitedly waiving the government's sovereign immunity. In adding the foreign country exception to the FTCA, Congress intended to prevent the United States from being subject to the laws of foreign sovereigns. Thus, when foreign law controls a tort claim between a claimant and the United States, the government may continue to assert sovereign immunity. In her Comment, Chief Articles Editor Kelly McCracken argues that by often holding unnecessarily that foreign law applies to tort disputes between a claimant and the United States, courts have strayed from the exception's narrow purpose. As a result, deserving plaintiffs have been unjustly denied relief against the government. The author proposes that courts invoke the foreign country exception only where foreign law must apply, rather than where there is a mere possibility that it could apply.

Chief Note and Comment Editor Mitchell L. Beckloff examines evolving Supreme Court state action doctrine in his Note considering *San Francisco Arts & Athletics, Inc. v. United States Olympic Committee.* In that case, the Supreme Court held that the United States Olympic Committee is not subject to constitutional restraints in its licensing decisions. Analyzing this case and *West v. Atkins*, a subsequent Supreme Court decision, the author contends that the Court is relaxing the restrictive state action requirements it established in *Lugar v. Edmondson Oil Co.* The author concludes that regardless of whether the Court continues this loosening trend or returns to the strict *Lugar* analysis, it is apparent that the Court has manipulated the state action doctrine to avoid reaching the controversial issue of homosexuals' constitutional rights.

Note and Comment Editor William Mark Roth winds up this issue of the *Review* by analyzing prisoners' constitutional rights in the aftermath of the Supreme Court's decision in *Turner v. Safley*. The *Turner* Court held that prison regulations reasonably related to legitimate penological interests are constitutionally valid. The author argues that the standard is unworkable, and critically analyzes its application in several post-*Turner* cases. The author concludes by proposing another standard of judicial review that in his opinion strikes the proper balance between the competing interests involved in prisoners' rights cases—deference to decisions of professional prison officials and the protection of prisoners' constitutional rights.

The Editors