Baseball's Labor Wars in Historical Context: The 1919 Chicago White Sox as a Case-Study in Owner-Player Relations

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"It must have been... It must have been like..." But I can't find the words.

"Like having a part of me amputated, slick and smooth and painless." [He] looks up at me and his dark eyes seem about to burst with the pain of it... .

"I loved the game,"... "I'd have played for food money. I'd have played free and worked for food. It was the game, the parks, the smells, the sounds... . It makes me tingle all over like a kid on his way to his first double-header, just to talk about it."1

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'The original plan of organization... embraced cooperation by the players in the matter of gate receipts and profits; and one of the inducements held out to players... was the alluring one of sharing in the proceeds of the seasons' games.'2

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The New York Times reported that when [he] left... the previous day, "a crowd of small boys gathered round their idol and asked: 'it isn't true, is it, ...?' [He] replied: 'Yes, boys, I'm afraid it is.'"3

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I. Introduction

For anyone interested in the "game" of American baseball, these three quotations epitomize a 125 year old trichotomy.

First, the words of W.P. Kinsella's mythical Shoeless Joe Jackson are surely the novelist's hyperbole. The notion of the baseball player as overpaid child who would probably play for food money, however, does have an historically truthful ring. As Hall of Famer Rube Marquard put it: "Every single day of all the years I spent in the Big Leagues was a thrill for me."

Second, the idea that baseball is a business with unionist players working, but not yet sharing in the profit of their efforts with big business owners, is a feature of too many current sports pages.

Finally, the role of baseball players as idols to millions of Americans is so firmly entrenched in our national culture that it has even captured the attention of a United States Supreme Court Justice, who wrote that the exploits of American baseball heroes "have provided tinder for recaptured thrills, for reminiscence and comparisons, and for conversation and anticipation in-season and off-season."

None of these quotations, however, were written about current baseball labor/management squabbles. All were instead written about organized baseball's earliest years and about that baseball episode popularly known as the 1919 Chicago Black Sox scandal.

Fueled by the press, the modern belief suggests that labor strife in baseball began sometime in the mid-1960s. As one sportswriter put it: "Baseball has been stopped by four strikes and three lockouts since 1972, and fans have found the constant bickering tiresome."

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4. See, e.g., LAWRENCE S. RITTER, THE GLORY OF THEIR TIMES 258 (1985) (interview with Bob O'Farrell). Catcher Bob O'Farrell, who played in the majors from 1915-1936 explained the same concept this way: "Of course, when you play every day it gets to be sort of like work. But, somehow, way down deep, it's still play. Just like the umpire says: "Play Ball!" It is. It's play." Id.
5. Id. at 13.
7. Another Strike? Baseball Union Targets Labor Day for Walkout, NEWSDAY, July 14, 1993, at 132 (report prepared by the Associated Press). It was in 1972 that the Players' Association, recognized by the owners in 1966 as the collective bargaining unit for the players, struck major league baseball for 13 days, causing cancellation of 86 games. See MARVIN MILLER, A WHOLE DIFFERENT BALL GAME 221-222 (1991). The events leading up to the strike and negotiations to end it are discussed on pages 203-223. Games that were lost were not made up, with the result that some teams lost six games while others lost seven. See CHARLES C. ALEXANDER, OUR GAME 280-281 (1991). The lost games were significant in the American League, where Detroit, with a record of 86-70 in 156 games, won the pennant by 1/2 games over Boston, with a record of 85-70. See DAVID S. NEFT & RICHARD M. COHEN, THE SPORTS
The belief is incorrect. And the story of the 1919 Chicago Black Sox, when properly viewed, serves as an example of how baseball's labor wars long predate the Players' Association. The labor disputes of the Black Sox, and their predecessors, as laborers, serve as necessary historical "context" for a proper understanding of all current professional sports labor disputes.

While it remains popular to sympathize with members of the infamous 1919 Chicago White/"Black" Sox, that is not the purpose here. As a result, the suspension for life of eight players accused of conspiracy to alter the results of the 1919 World Series with the Cincinnati Reds must remain an historical fact.

ENCYCLOPEDIA: BASEBALL 404 (13th ed. 1993). For the Red Sox, this result could be seen as a further extension of the "curse" that supposedly began after the 1918 World Series. See infra note 235 and accompanying text.

Even Marvin Miller, former Executive Director of the Players' Association, called the 1972 strike "not only the first in baseball history—it was the first in the history of professional sports." MILLER, supra at 203.

8. The "Black Sox" scandal involved an alleged fix of the 1919 World Series and resulted in the permanent banishment from organized baseball of eight Chicago White Sox Players; pitchers Eddie Cicotte and Claude Williams, center fielder Happy Felsch, shortstop Swede Risberg, first baseman Chick Gandil, third baseman Buck Weaver, reserve infielder Fred McMullin, and left fielder "Shoeless" Joe Jackson. The White Sox lost the World Series to the Cincinnati Reds by five games to three in a best of nine game series. Joe Jackson, however, batted .375 during the Series and was the leading hitter on his team. Buck Weaver, Chicago's third baseman, batted .324, while White Sox captain Eddie Collins, not involved in the scandal, batted only .224. See JOSEPH DURSO, BASEBALL AND THE AMERICAN DREAM 127 (1986). Seven of the White Sox players (McMullin was excluded) were indicted along with five gamblers and long-time first baseman Hal Chase for conspiracy, however, none were convicted of any crime relating to the fix. HAROLD SEYMOUR, BASEBALL: THE GOLDEN AGE 324-329 (1989). All eight were banned from baseball for life, along with another player from the St. Louis Browns. Id. at 330. Weaver, while knowing about the fix, never received any money and was banned from baseball because of his knowledge of what others were doing, and his failure to turn that knowledge over to proper authorities. ELIOT ASINOF, EIGHT MEN OUT 279-282 (1987).

9. Going into the Series, the White Sox were heavy favorites. On the eve of the first game in Cincinnati, however, the Reds began to amass considerable support from professional gamblers around the country, many of whom were willing to scrap previous odds in favor of Chicago and bet even money on the Reds. See ASINOF, supra note 8, at 41-43. As observed by the publisher of The Sporting News, who served as one of the official scorers of the Series, despite the White Sox being a "stronger team," professional gamblers were "hocking their rings, raising any money they could, to bet on the Reds." The professional gamblers were betting on the Reds, while the amateurs bet on the White Sox. JOHN GEORGE TAYLOR SPINK, JUDGE LANDIS AND TWENTY-FIVE YEARS OF BASEBALL 59 (1947). On the other hand, Cincinnati Reds players, including Hall-of-Fame center fielder Edd Roush and first baseman Heine Groh, saw no impropriety in the on-field conduct of the White Sox during the series, and, in fact, believed the Reds had a stronger team. RITTER, supra note 4, at 218-19 (interviews with Edd Roush and Heine Groh). All eight were permanently expelled from baseball by Commissioner Kennesaw Mountain Landis, primarily on the basis of confessions by "Shoe-
What remains a mystery is "why?" And that is where two parts of the trichotomy become important. If, as history tells us, players would play for nothing; if, as our own experiences teach us, players have been consistently willing idols for children, why would those same ballplayers throw away those thrills and tarnish their role by attempting to fix the World Series? Is it even possible that it was just for the money? Or is it more possible that the actions of the Black Sox were related to the third aspect of the trichotomy—the desire to share in the ownership and operation of the game itself?

Eliot Asinof, whose *Eight Men Out* serves as a biography of the Black Sox, indicated one of his journalistic purposes was to answer the questions: "Why did they do it?"; and "What were the pressures of the baseball world, of America in 1919 that would cause the players to take the actions they have been historically tagged with taking?"\(^\text{10}\) Admittedly, however, Asinof sought answers from the players and their lives.\(^\text{11}\) As a result, while the fact that the players were laborers working for management/owners is a matter of historical record,\(^\text{12}\) Asinof's questions have not generally been asked primarily from a labor law perspective.

This article seeks to review history from that perspective. To accomplish this, the following must be reviewed: the state of organized labor within baseball at the time of the 1919 World Series; judicial decisions declarative of player rights and liabilities; organized baseball's pre-1920's approach to gambling; and finally some of the facts surrounding the "fix." These facts then can be reviewed in light of the way baseball was reported by the nation's press.

Placed into this new analytical paradigm, the historical record suggests that if the players attempted to throw the World Series, their acts, while undoubtedly wrong, were perhaps the players' only available rem-
ed to satisfy a legitimate dispute with their owners. If such a dispute existed, a strong motive for the players' actions emerges. Perhaps more important, however, a motive emerges for baseball's first commissioner, hired by owners in the midst of the scandal, to suspend the players for life, even in the absence of a criminal conviction or other finding of guilt.\textsuperscript{13}

If this labor/management point-counterpoint were misunderstood, and therefore misreported by the contemporary baseball press, maybe the historical record is not quite accurate and needs to be disturbed to the extent that it makes current baseball labor disputes more understandable.

II. Birth of Professional Baseball

The modern view is that refinements in a rough and rowdy game called "Town Ball"\textsuperscript{14} by New Yorker Alexander Cartwright gave baseball its first surge of popularity.\textsuperscript{15} By 1860, baseball had spread through-
out the east coast and westward to Chicago and St. Louis, with some sixty (60) clubs belonging to the "National Association of Base Ball Players."16 Players were expected to have both money and social standing and were expected to invest their own funds in uniforms, dues, and upkeep of playing fields. Profanity was forbidden, on penalty of fine, and an argument with an umpire could result in "personal disgrace" until any levied fine was paid.17

Within two years after the Civil War, the National Association of Baseball Clubs had grown to 237 member clubs, with over half of them in the Midwest.18 These teams continued to be considered amateur.

16. DAVID Q. VOIGT, AMERICAN BASEBALL 9 (1966). While it is clear that baseball spread to other parts of the country during the Civil War, the actual extent of that spread remains in considerable doubt. Id. at 11. It is claimed the game was played by Union soldiers to relieve the drudgery of military encampment; and played by northern prisoners in POW camps, both among themselves to relieve tension and against teams of guards. It is also said the spark that ignited the notion of baseball as the "national pastime" took place on Christmas Day, 1862 when some 40,000 Union soldiers watched a game at Hilton Head, South Carolina between teams chosen from the 165th New York volunteer infantry. See id.; SMITH, supra note 14, at 14. But see ALEXANDER, supra note 7, at 11-12. Alexander points to the "appalling conditions" in Confederate prisons as making it unlikely that Union prisoners would have the strength to play baseball, noting that one of the southern prison camps where baseball was supposed to have flourished had a 34% death rate, worse even than the legendary Andersonville. Id. Alexander does acknowledge that baseball spread during the war, both because it continued to be played in the north and because baseball players did serve in the military. Id.

Following the war, baseball remained essentially a "town game," with teams made up largely of players from one town, although several notable eastern teams traveled throughout the country continuing to spread the popularity of baseball. See, e.g., SMITH, supra note 14, at 10-11. As baseball spread, it did so as a participatory game, rather than a mere spectator sport. Thus, fans, after watching a touring company of ball players, would attempt to duplicate the players' exploits on their own fields. Id. at 10. One baseball story demonstrating baseball's increasing popularity (reported as fact by A.G. Spalding), tells of a young Abraham Lincoln playing baseball at Springfield, Illinois when he was advised that delegates from the Republican National Convention had arrived to offer him the nomination for the Presidency. "Tell them they'll have to wait until I make another hit," was Lincoln's fabled reply. JOHN DURANT, THE STORY OF BASEBALL IN WORDS AND PICTURES 13 (1947); SPALDING, supra note 2, at 233.

17. The aristocratic nature of this early game is seen in the fact that the New York group, led by Cartwright, tried to control the development of the social end of the game, setting itself out as "the social arbiters of baseball, after the manner of the Marylebone Cricket Club, then presiding over English cricket." VOIGT, supra note 16, at 8. Following the founding of the National Association, the New York club was eliminated from much of the organizational structure. Id. at 8-9.

18. DURANT, supra note 16, at 19.
Players willing to take money for playing were considered a disgrace.\textsuperscript{19} Because teams represented a town, however, the players may have thought themselves compelled to uphold community pride by attempting to win against teams from rival towns. As a result, class barriers were broken and teams began to include strong, working-class players.\textsuperscript{20} Because these players did not have the financial wherewithal to be true amateurs, they were offered jobs or other financial assistance in the town.\textsuperscript{21}

Soon, this indirect support gave way to traditional player salaries. In 1865, the Philadelphia Athletics lured second baseman Albert Reach from the Brooklyn Atlantics in return for compensation.\textsuperscript{22} Two years later, the Forest City team of Rockford and the Brooklyn Atlantics both had salaried players.\textsuperscript{23} By 1869, the Red Stockings of Cincinnati had ten salaried players, with salaries ranging from $600 to $1400, and a total club payroll of $9300. This first "professional" team won sixty nine (69) games before its first loss.\textsuperscript{24}

To pay these salaries, as well as travel and equipment costs, teams began to charge admission to the games, and to split some of those proceeds among the players. This practice did not reduce attendance as fans

\textsuperscript{19} Ronald Encyclopedia of Baseball 1-7 to 1-8 (Joe Reichler ed. 1962); Durant, \textit{supra} note 16, at 19. A member of the Empire Club of New York was expelled for taking money to play in 1865. \textit{Ronald Encyclopedia of Baseball, supra} at 1-8. For an excellent account of small town baseball throughout Ohio during this period, see Carl M. Becker & Richard H. Grigsby, \textit{Baseball in the Small Ohio Community}, 1865-1890, in \textit{Sport in America: New Historical Perspectives} 77-93 (Donald Spivey, ed. 1985).

\textsuperscript{20} Voigt, \textit{supra} note 16, at 12, 15-16.

\textsuperscript{21} Even the federal government became involved, supporting a group of federal "clerks" whose principal occupation was playing baseball for the Washington, D.C. Nationals on the lot near the White House or in other towns to which the team traveled. Smith, \textit{supra} note 14, at 10-11. Sometimes, an entire town contributed to the players' well being. When a team from Rockford, Illinois beat a touring team from Washington, D.C. in 1867, the citizens of Rockford honored their stars by giving them "watches, gold pins, and other gifts." Voigt, \textit{supra} note 16, at 17. The town celebrated for an entire week, settling down only after members of the Washington team wrote a letter to a Rockford newspaper acknowledging that the Washington team was no longer the "national champion." Id.

\textsuperscript{22} Ronald Encyclopedia of Baseball, \textit{supra} note 19, at 1-8.

\textsuperscript{23} Id. (noting that one of the leaders in this drive toward professionalism was A.G. Spalding). Spalding first came to prominence in connection with the traveling eastern team, the Nationals. The Nationals played teams as far west as St. Louis. The team expected to win all of its games against teams that had been in existence for much shorter periods of time, and, with one exception, this proved true. The exception was a team from Rockford, Illinois for whom Spalding was the pitcher. Smith, \textit{supra} note 14, at 11; Ronald Encyclopedia of Baseball, \textit{supra} note 19, at 1-8.

\textsuperscript{24} Ronald Encyclopedia of Baseball, \textit{supra} note 19, at 1-8.
were willing to pay to watch star players. As competition increased, clubs sought the most talented players in the region, which in turn caused admission prices to rise, and saw the end of the amateur baseball gentry. Baseball free agency had begun and professional baseball became a career option for otherwise working-class youths.

III. GROWTH OF "PROFESSIONAL" BASEBALL AS A LABOR-MANAGEMENT RELATIONSHIP

The first "professional" baseball league, the National Association of Professional Baseball Players was organized in 1871 succeeding its predecessor, the amateur National Association. A player-organized league, the National Association was without labor strife, because players were free to move about as they pleased. The organizers relied on the good

25. VOIGT, supra note 16, at 12, 15.
26. Id. at 15 (noting that even in 1863, some clubs were charging as much as $.25 to attend a game).
27. Id. at 19. The members of the 1869 Brooklyn club provide a case study. The average player's age was 23; the pitcher had previously been employed as a stonemason, the catcher by the post office, infielders and outfielders either had no previous job experience or had been employed in jobs such as compositor, machinist, and shipping clerk. Id.
28. RONALD ENCYCLOPEDIA OF BASEBALL, supra note 19, at 1.9.
29. DAVID Q. VOIGT, AMERICA THROUGH BASEBALL 132 (1976). This new association adopted both the rules and constitution of its amateur predecessor. VOIGT, supra note 16, at 37. That did not mean, however, that there was no friction between those who favored amateur, as opposed to professional baseball. Cincinnati, the first all-salaried team, found that success lasted only as long as its latest championship and, when other teams began to pay players, Cincinnati no longer dominated baseball. As a result, gate revenue fell, and by 1870 it was reported the team had only broken even over the prior two years. As a result, the Cincinnati Red Stockings returned to amateur status for the 1871 season. Id. at 37, 33-34. As has been true since, however, others believed they could succeed even though one team failed. A newly organized group in Boston hired Cincinnati manager and star Harry Wright to manage a team there and Wright took the "Red Stocking" name with him from Cincinnati to Boston. Id. at 33-34.

The 1870 meeting of the former National Association was said to be "a fiery affair marked by hot words between" the amateur and professional camps. Ultimately, the amateur group quit the meeting and the professionals agreed to form their own league, doing so in March, 1871. Nine teams were enrolled for the $10 entry fee: Boston, Philadelphia, Chicago, New York, Washington, D.C., Troy, Cleveland, Fort Wayne, and Rockford. By the middle of the season, Fort Wayne had folded and was replaced by Brooklyn. While the Philadelphia Athletics won the league's first championship, Boston's Red Stockings dominated the league, winning the next four years. RONALD ENCYCLOPEDIA OF BASEBALL, supra note 19, at 1-9.

The league itself was plagued by organizational problems. It had adopted the amateur practice of using only volunteer umpires, it had no formal schedule, leaving the arrangement of playing dates to the individual clubs (although requiring that each club play each other at least five times during the season), and it had no agreement on admission fees, with most clubs charging about $.50 and sharing the proceeds two thirds to the home team, one third to the visitors. VOIGT, supra note 16, at 37.
faith of the owners and players to discharge existing contracts with honor before players signed with rival clubs. What the league produced was a “players’ market” in which individuals could set salaries based upon the strength of their own “‘muscle, endurance and skill.’” Abuse of this early free agency, however, soon began to occur. Between the time the league was formed and 1875, “[t]he public became disgusted and turned against baseball . . . Contract breaking was going on everywhere. Businessmen lost interest in the Association.” Matters came to a head in 1875 when Chicago owner William Hulbert signed four of the league’s best players away from the Boston club. When remaining owners complained to Hulbert about his conduct, “he invited them earnestly to go fry.”

One of the players who signed with Hulbert was pitcher A.G. Spalding, who believed that player control of baseball was an unwelcome remnant of baseball’s gentlemanly beginnings. He found that while teams in the National Association of Professional Base Ball Players were designed as stock companies, owners really had no expectation of profit. Instead, the owners thought of their ownership as a club membership. In Spalding’s view, baseball could not be a commercial success unless the game itself was willing to both make a profit and control player and owner discipline. Spalding’s own words are a testament to the modern view of owner-player relations: “Base Ball depends for results upon two interdependent divisions, the one to have absolute control and direction

30. The league provided for arbitration by neutrals from other clubs of disputes to the services of a player. Voigt, supra note 16, at 37. This idyllic view suggested that organizers, many of whom were former ballplayers with no business or management experience, clung to the view that baseball was a sport for wealthy gentlemen. Durant, supra note 16, at 26. The reality was quite different. As one author put it: “The players were no longer young gentlemen prompted to play by love of sport. They were often tough young men who played for blood as well as money . . . .” Smith, supra note 14, at 25.

31. Voigt, supra note 16, at 34.

32. Ronald Encyclopedia of Baseball, supra note 19, at 1-10.

33. Smith, supra note 14, at 26. Compare with Miller, supra note 7, at 286-319, in which the former Executive Director of the current baseball players’ association discusses his views that the 1981 baseball players’ strike was caused by owners wanting players to give up the free agency they had won in 1976. The reason give-backs were demanded, according to Miller, was the free spending habits of the owners themselves. He indicates “that the strike grew out of conflicts among the owners. Theoretically, [the owners] believed in . . . individualism and competition. But some of them—hard-liners like Calvin Griffith, Gussie Busch, and Ruly Carpenter—were outraged by the free-spending, high-profile owners like George Steinbrenner, Ted Turner, and Gene Autry.” Id. at 309.

Hulbert did not raid only the Boston club. He also signed Adrian “Cap” Anson of Philadelphia, one of baseball’s best hitters. Smith, supra note 14, at 26.

34. Voigt, supra note 16, at 52-53.
of the system, and the other to engage—always under the executive
branch—in the actual work of production.”

When Spalding and his three Boston teammates moved to Chicago,
the player strength moved with it, leaving the east coast for the first
time. Hulbert, one of the first owners who did not grow up a player,
shared Spalding’s view of the game as a business. He therefore sensed
that the eastern owners would attempt retaliation against his raiding of
the Boston club. Instead of awaiting their actions, he and Spalding took
the initiative, drafted a constitution and, with support from the midwest-
ern cities of St. Louis, Louisville and Cincinnati, created the National
League of Professional Base Ball Clubs. The new league had many of
the same teams, but was radically different in structure. Organization
was more centralized (“league” as opposed to “association”) with the
supporting structure being the individual team (“club”), and not the
players. Players limited their activities to the field with a clear line of

35. Spalding, supra note 2, at 169-170. The original of this book was written by Spalding
in 1911. Spalding rejected the commonly held players’ view:

[The players] argued that the people who patronized Base Ball paid to see them play.
They were the star performers, the actual “producers” of the entertainment. They held
... that no one would give up a farthing to the man at the box-office; nobody would
part with a ticket at the turnstile; none would contribute a nickel at the grandstand, so
far as the men presiding at those posts were concerned; and as for the owners of clubs,
what did the public care for them?

....

I [do not] believe that their contentions were based upon safe or sane business
theory.

Id. As a result, Spalding saw no reason to think the production of a baseball game was any
different than manufacturing of baseballs or bats. Compare David Parry, Proceedings of the
Eighth Annual Convention of the National Association of Manufacturers of the United States,
(April, 1903), reprinted in 12 The Annals of America 513, 516-17 (1976). Parry, the Presi-
dent of this national association of manufacturers, called the labor movement “an organiza-
tion of manual labor, trained and untrained, of men who do as they are told and who depend
upon the brains of others for guidance.” Id. at 516. Parry indicated unions were made up of
“men of muscle,” rather than “men of intelligence.” As a result, organized labor set about to
overturn the “natural laws of economics.” Id. at 517.

36. See Voigt, supra note 16, at 61-64. The league was formally founded at the 1876
league meeting. Id. at 63.

37. See Alexander, supra note 7, at 27. Spalding saw these changes as part of the “irre-
pressible conflict between Labor and Capital.” Pietrusza, supra note 14, at 29. Each team
paid a $100 per year membership fee enabling the league to set up a national office and well-
known banker, but little-involved baseball person Morgan Bulkeley was named first president.
Bulkeley later served as Governor of Connecticut, and as United States Senator. See Du-
rant, supra note 16, at 27. When he accepted the presidency of the National League,
Bulkeley indicated that he would serve but one year. As a result, he failed to appear at the
league meeting in December, 1876, when Hulbert was chosen as the new president. Thus,
Bulkeley served as president for less than a full year. His only other baseball experience was
as a banker who became involved in ownership of the Hartford National League club. Ironi-
demarcation between "management," (those who controlled the grounds upon which games were played, discipline, scheduling, player contracts, and public relations), and the "players." Even with these changes,
however, by 1879, owners were still not making a profit.\textsuperscript{40} Attendance had not radically increased and clubs were struggling economically, with salaries encompassing about two-thirds of a team’s expenses.\textsuperscript{41} The major problem was the fact that owners continued to bid for players, who were permitted to sign with any club when their normal one year contracts expired. This kind of free agency was decried by owners like Hul-

owners should be making money. PIETRUSZA, supra note 14, at 28. His efforts to make baseball respectable was designed to protect team, and therefore, owner interests. VOIGT, supra note 16, at 63. The bottom line then, was to keep gate revenue coming in by playing games that people would attend. It was thought that people would attend only those games they thought to be fairly conducted. VOIGT, supra note 29, at 62. "No longer [would baseball] be a hobby for status-seeking gentlemen." VOIGT, supra note 16, at 64.

The Easterners, particularly Chadwick, who found themselves excluded from the operating structure of the new National League, opposed its creation. PIETRUSZA, supra note 14, at 31.

To assure the sought-after changes, the National League revised several aspects of baseball organization:

1. By agreement among the clubs, territories were granted, so that only one baseball club could be recognized by the League in a particular geographic area. See id. at 29; VOIGT, supra note 16, at 63. This move was not universally popular because it meant that one team would be eliminated from Washington, D.C., Philadelphia, and St. Louis.

2. Teams agreed that if they did not complete their schedules, they would be expelled from the league and could be reinstated only upon agreement of all other clubs. VOIGT, supra note 16, at 65.

3. Teams agreed that if a player were expelled, either by a team or the league, no other league team would employ that player. PIETRUSZA, supra note 14, at 29.

In addition, the teams in the new league agreed, both at the outset and shortly thereafter, to institute changes in player contracts:

1. A uniform player’s contract was developed and, although it allowed players to change teams, the player was obligated to follow all rules set out by the club. VOIGT, supra note 16, at 64. Because the contract was uniform, an individual player had little to say in its formation. Players simply received their contracts from owners. They could either sign them and obligate themselves to play any position assigned by the club or they could not sign and not play. Id. at 66. Players who protested were held to the same standard as those who were crooked and blacklisted. Id. at 76.

2. Part of the uniform agreement attempted to prevent a player from negotiating with another club before the season ended by providing that the player could be expelled for violating the contract. Id. at 64; SPALDING, supra note 2, at 136. The expulsion was for life. Spalding makes no mention of the fact that he had done this very act when he left Boston and negotiated with Chicago. See PIETRUSZA, supra note 14, at 23-27.

3. Beginning in 1877, players were charged both for their uniforms and for days spent on the road, $30 per year for uniforms and $.50 per day for each day spent on the road. VOIGT, supra note 16, at 60.

4. Beginning in 1879, players were paid only if they played. Claiming the rule as one restricting “drunken” or “bumming” players, owners did agree to give “special consideration” to players unable to play who were nonetheless hardworking. Id. at 79. It was already considered grounds for dismissal that a player was ill, injured or insubordinate. Id. at 66.

40. The labor situation in organized baseball must be contrasted with the nation’s general labor situation. See infra note 90.

41. See PIETRUSZA, supra note 14, at 39-43.
bert who complained: "It is ridiculous to pay ballplayers $2000 . . . when the $800 boys often do just as well." The economic fact however, was that when clubs bid against one another, costs (primarily of labor) went up, profits down.42

To control themselves from attempting to outbid one another, the owners in 1879 adopted the first "reserve rule," which allowed each team to protect five players from its club.43 No other clubs would seek to hire or even to negotiate with these players without permission from the reserved player's present owner. Finally, all owners agreed they would not play a team, within or without the League, fielding a team containing any player "reserved" by another team.44

42. Id. at 43. It was generally thought that players were incapable of managing their own affairs. National League Secretary Nick Young is said to have written to one of the owners about how players generally frittered away their money: "It comes and it goes . . . and at the end of the season they are hard up as usual, and have little or no idea what has become of it . . . ." ALEXANDER, supra note 7, at 31.

43. MILLER, supra note 7, at 309 (indicating that baseball owners have always been in competition with each other for baseball players. What the owners have thus wanted the players to do was "to protect the owners from themselves.").

44. PIETRUSZA, supra note 14, at 43. The scope of the "reserve" rule was increased from five to eleven players in 1883, id. at 78-79, and eventually encompassed the entire team when the American League came into existence in 1903. Id. at 179. In 1889, the National Agreement had expanded the number to 14. SPALDING, supra note 2; at 149-150. The 1903 agreement, however, indicated that "[e]ach and every contract . . . with players . . . shall be considered valid and binding," and also provided that the clubs could "reserve players under contract" without reference to number. PIETRUSZA, supra note 14, at 179.

Defense of this rule has traditionally been based on the need for competitive balance. "Otherwise the wealthiest clubs would corral the best men and thereby destroy the industry by making a mockery of competition on the playing field." SEYMOUR, supra note 8, at 7. The way in which various agreements relating to baseball coalesce to form the reserve rule are discussed beginning at note 205.

The reserve clause is, in economic terms, an "input" restriction that makes the "output" of the owners—the game of baseball itself—more profitable because it reduces the total cost of production of the game to the owners. One author has concluded that such an input restriction in a sports-related industry in fact benefits wealthy members of the cartel, rather than promoting competition among all members. Compare Arthur A. Fleisher, ET AL., THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, A STUDY IN CARTEL BEHAVIOR 55-58, 103-104 (1992) (enforcement of "input" restrictions tends to benefit already wealthy teams and prevent previously poor teams from gaining wealth). The argument has been made that this theory is true in dealing with major league baseball. In the 1950's, before baseball player free agency, the Yankees and Dodgers dominated the scene. In the 1980's, following the adoption of free agency, no single team dominated and teams from smaller, less wealthy markets such as Kansas City, Milwaukee, Minnesota, and St. Louis became regular playoff contenders:

What happened with free agency turned out to be exactly the opposite of what the owners said: Teams could no longer stockpile talent, perennial cellar dwellers could improve themselves. Competition became keener, pennant races became more exciting, attendance increased, TV revenues went up . . . .
With the advent of the reserve rule, organized baseball achieved a "monopsony . . . that is, a buyer's monopoly—over their men."\(^4\) As in other "great industrial monopolies,"\(^4\) it was time for labor and outside competition to react.

IV. FIRST SIGNIFICANT OUTSIDE COMPETITION—THE AMERICAN ASSOCIATION

One of the first challenges to National League monopolization of big league baseball was the American Association, founded in 1881 and known as "the beer and whiskey league," because one of its founders was a St. Louis saloon keeper and because it allowed alcohol in the ballparks.\(^4\) The National League and the American Association coexisted through early 1882 when there were twenty one (21) inter-league exhibition games, all won by the National League.\(^4\) During that same year, however, two players from Detroit of the National League signed to play in the American Association.\(^4\) As a result, the National League refused to further recognize the Association. The Association retaliated by refusing to respect the reserve clauses of the National League as well as signing thirteen former National Leaguers to American Association options for the 1883 season.\(^5\)

One of the players the American Association sought to sign was Detroit Wolverine Charles Bennett, called by one manager "the best back-

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4. SEYMOUR, supra note 8, at 6.

45. MILLER, supra note 7, at 352.

46. Compare MORRIS M. FORKOSCH, A TREATISE ON LABOR LAW § 106 at 173-74 (2d ed., 1965) (pointing out "the industrial union, as a labor gargantua, appeared first as a response to the great industrial monopolies . . .").

47. PIETRUSZA, supra note 14, at 61-67. The tavern keeper was Chris Von der Ahe of St. Louis. His partner in formation of the St. Louis Browns, and purchase of Sportsman's Park for $500, was Alfred H. Spink, then a sports writer for a St. Louis newspaper. Spink would later begin The Sporting News, long a champion of baseball. Id. at 67. In addition to the Browns, the American Association included the Chicago White Stockings and the Cincinnati Red Stockings and over its existence through the 1891 season, teams from New York, Columbus, Louisville, Baltimore, Philadelphia, Toledo, Richmond, Brooklyn, Washington, Pittsburgh, Indianapolis, Cleveland, Kansas City, Rochester, Syracuse, and Milwaukee. Id. at 327-331. Note that several of these teams came from cities either left out of the new National League or where one of two preexisting teams was dropped.

One of the first managers of the Browns was a first baseman Spink lured from the Dubuque Rabbits in 1883 named Charles Comiskey. Id. at 70.

48. Id. at 72.

49. Id.

50. Id. at 73.
stop that ever lived.\textsuperscript{51} On August 3, 1882, evidently while the 1882 National League season was still being played, Bennett signed an option to play with the Allegheny (Pittsburgh) Base-Ball Club of the American Association. He further agreed to sign a regular contract to play for Allegheny in 1883 before the end of October, 1882.\textsuperscript{52} Bennett also encouraged two other players, third baseman Ned Williamson and pitcher "Pud" Galvin, to jump leagues with him.\textsuperscript{53} Following the season, however, Bennett evidently reneged, because on October 5, 1882, Allegheny filed suit in federal court. It alleged Bennett refused to sign with Allegheny instead signing a new agreement with Detroit. The club also alleged that Bennett's actions had caused both Williamson and Galvin to similarly renege. The suit sought specific performance of the option agreement.\textsuperscript{54} The court was not persuaded issuing a one line ruling for

\textsuperscript{51} Id. at 73-74. Bennett is listed as having compiled a .262 batting average in 1038 games from 1878-1893. RONALD ENCYCLOPEDIA OF BASEBALL, supra note 19, at 12-12. In 1900, Detroit renamed its 8,500 seat baseball stadium “Bennett Field” in honor of this catcher. PETERSZKA, supra note 14, at 150.

\textsuperscript{52} Allegheny Base Ball Club v. Bennett, 14 F. 257, 257 (W.D. Pa. 1882). Bennett was paid $100 for signing this option and was to receive $1700 from the Allegheny club for the 1883 season. Id.

\textsuperscript{53} Id. at 258. These two players were identified in the opinion as “two other skillful players.” Id. “Ned” Williamson was a third baseman/shortstop who batted .255 in 1192 major league games with Indianapolis and two Chicago teams. Galvin was indeed a “skillful” player. Known as “The Little Steam Engine,” Galvin compiled a major league won/loss record of 361-309 with an earned run average of 2.94. Galvin pitched 639 complete games. He played for Buffalo, St. Louis, and Pittsburgh teams in the American, National and Players’ League. See NEFT & COHEN, supra note 7, at 10. See also PETERSZKA, supra note 14, at 74. Galvin was elected to the Hall of Fame by the Committee on Veterans in 1965. NEFT & COHEN, supra note 7, at 628.

\textsuperscript{54} Allegheny Base Ball Club, 14 F. at 258. Defending the action, Bennett presented six reasons why the court should not grant the remedy of specific performance:

1. The option was preliminary to a final contract that was never executed so that there was nothing to be enforced;
2. Any contract that did arise was uncertain and indefinite and not therefore susceptible to the remedy of specific performance;
3. An adequate remedy at law was available if the plaintiff hired players of Bennett's skill. Any additional salary that plaintiff was obligated to pay would be the damage;
4. Equity will not enforce an agreement for personal services;
5. Even if there were a contract, and even if the court had been willing to enforce a negative covenant by injunction, the agreement was unlimited in terms of time or geography and would not therefore support equitable relief;
6. The lawsuit was premature, since Bennett had until the end of October to sign and because no damage could accrue until Bennett either played for another team or failed to play for Allegheny at the beginning of the 1883 season.

The court did not indicate which, if any, of these arguments it found persuasive.
Bennett: "Demurrer sustained and bill dismissed."55

The import of Bennett was the court's refusal to use its equitable power to tie a player to a particular team or owner, even while recognizing a possible cause of action for damages. By refusing to assert equity's in personam jurisdiction, the court authorized limited free agency during a period when real competition existed.

The historical record shows the benefit to the players. Average salaries in baseball during the 1880s ranged from $1,000—$5,000.56 While Charles Bennett's salary is unknown, William "Buck" Ewing, another "outstanding catcher of that era," earned $1,000 in 1881 and $1,200 in 1882.57 Because Ewing has been elected to the baseball Hall of Fame,58 it is certainly plausible that his salary would be among the leaders for catchers. Thus, Bennett's negotiation with Allegheny for $1,700 before the 1882 season ended is evidence of a "free market" system driving up prices.

The effect of market demand becomes even more apparent when Ewing's salary is reviewed. Having reached $1,200 in 1882, Ewing's salary jumped to $3,100 for each of the years 1883-1885.59 Such a dramatic increase, while undoubtedly related to ability,60 must be measured in light of the recognition that a team could not be successful without a good catcher.61 The possibility that catchers could jump to a new league would likely increase the marketability of all catchers. In fact, the American Association invited any National League catcher to join the new league, but only one did so. "[O]thers threatened to do so and won pay increases from League clubs."62

These developments were not lost on the owners. With the death of

55. Id. at 261.
57. Id. The offensive statistics of Bennett and Ewing were comparable. While Bennett batted .262 in 1038 games from 1878-1893, Ewing batted .311 in 1281 games from 1880-1897. Bennett had 63 home runs during this "dead" ball era, while Ewing had 67. RONALD ENCYCLOPEDIA OF BASEBALL, supra note 19, at 12-12, 12-58.
58. He was elected in 1939, by the Old-timers Committee. See NEFT & COHEN, supra note 7, at 628.
59. GREGORY, supra note 56, at 93.
60. While Ewing's career batting average was .311, he did not bat over .300 for the first time until 1883, the first year of his new contract. See supra note 57. Prior to his 158% salary increase at the beginning of the 1883 season, Ewing had batted .152 in 13 games in 1880, .243 in 65 games in 1881, and .273 in 72 games in 1882. He had two home runs during these three seasons, both in 1882. RONALD ENCYCLOPEDIA OF BASEBALL, supra note 19, at 12-58.
61. GREGORY, supra note 56, at 28.
62. See ALEXANDER, supra note 7, at 36.
National League founder Hulbert in 1882, lawyer Abraham G. Mills became National League president. He invited American Association leaders to a baseball summit conference in New York.\(^6\) Recalling the days before the first reserve clause, Mills argued that, with competition, players again had superior bargaining power\(^6\) and that, as a result, all of the owners faced financial ruin without a settlement.\(^6\) The meeting produced an agreement that temporarily ended competitive bidding for players. The leagues agreed on a minimum player salary of $1000, agreed to retain a reserve clause and, most important, agreed to respect the reserve rights of other teams.\(^6\) Having again eliminated the competition, baseball owners enjoyed their most profitable season in 1883.\(^6\)

Elimination of competition also spelled the end of players’ salary gains. Many owners believed the salary increases received by the players as a result of competition were “[e]ntirely too high.”\(^6\) Because baseball was a business, owners were motivated by maximizing profits and minimizing costs, both depended on a stable, controlled work-force.\(^7\) Stability produced by monopoly, however, also produced arrogance. Despite overall salary increases during the 1880s,\(^7\) baseball players, by mid-dec-

63. See Spalding, supra note 2, at 145.
64. See Alexander, supra note 7, at 37; Voigt, supra note 16, at 127. Also invited were representatives from the newly formed Northwestern League, another minor league.
66. Alexander, supra note 7, at 37.
67. Id. at 37; Voigt, supra note 16, at 127-128. Under the agreement, the American Association was recognized as a “major” league and the Northwestern Association as a high minor league.
68. Alexander, supra note 7, at 37. Only Pittsburgh lost money. Philadelphia, St. Louis, Cincinnati, Baltimore, Louisville and Columbus all reported that they either broke even or made as much as $75,000 for the season. The season was so profitable that it caused several new minor leagues and yet another new major league to spring up. The Union Association was formed in September, 1893. Among its owners was a combination of businessmen in St. Louis that included Adolphus Busch, grandfather of the later Cardinal owner. After luring some players away from the National League and the American Association, the Union Association disbanded in January, 1885. Players who jumped to the Union Association from the National League and American Association, in violation of the reserve clause, were, by and large, allowed to return, although some paid fines before so doing. See Pietrusza, supra note 14, at 80-98.
69. Alexander, supra note 7, at 53.
70. See id. at 53; Voigt, supra note 16, at 154-55. Then player Charles Comiskey believed the owners were motivated by “greed.” Gustaf Axelsson, Comm 108-109 (1919).
71. See Pietrusza, supra note 14, at 112-13 (comparing the 1880s salaries of some of the baseball players who would become instrumental in the formation of the Players’ League). Hall of Fame information is from Neft & Cohen, supra note 7, at 628-29:

<table>
<thead>
<tr>
<th>Name</th>
<th>1881</th>
<th>1882</th>
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<th>1886</th>
<th>1887</th>
<th>1888</th>
<th>1889</th>
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<td>King Kelly (HOF-1945)</td>
<td>1300</td>
<td>1400</td>
<td>1700</td>
<td>2000</td>
<td>2250</td>
<td>2500</td>
<td>4000</td>
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<td>Hardy Richardson</td>
<td>1250</td>
<td>1300</td>
<td>1500</td>
<td>2000</td>
<td>2100</td>
<td>4000</td>
<td>4000</td>
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<td>4000</td>
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ade found themselves subject to blacklisting and other arbitrary treatment. “Substitute players were forced to do work around the ballpark, including watching turnstiles. Discontent grew.”

V. THE PLAYERS’ LEAGUE

Originally formed in 1885 as a benevolent and protective society, the Brotherhood of Professional Base Ball Players became a labor-oriented body following the owners’ decision at the end of the 1885 season to impose a $2000 salary cap. The Brotherhood was founded by nine members of the New York Giants, led by captain, John M. Ward. An

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<tr>
<th>Player</th>
<th>1800</th>
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<td>Ned Williamson</td>
<td>1400</td>
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<td>2500</td>
<td>2500</td>
<td>2500</td>
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<tr>
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<td>1600</td>
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<td>2500</td>
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<td>4000</td>
<td>4000</td>
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<td>Jim O’Rourke (HOF-1945)</td>
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<td>4500</td>
<td>3000</td>
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<tr>
<td>Ned Hanlon</td>
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<td>George Wood</td>
<td>875</td>
<td>1000</td>
<td>1400</td>
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<td>1800</td>
<td>2000</td>
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<tr>
<td>Pud Galvin (HOF-1965)</td>
<td>1200</td>
<td>1300</td>
<td>1700</td>
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<td>2600</td>
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<td>Fred Pfeffer</td>
<td>750</td>
<td>1000</td>
<td>1600</td>
<td>1800</td>
<td>1800</td>
<td>1800</td>
<td>2100</td>
<td>2400</td>
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<tr>
<td>Buck Ewing (HOF-1939)</td>
<td>1000</td>
<td>1200</td>
<td>3100</td>
<td>3100</td>
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<td>3100</td>
<td>3500</td>
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<tr>
<td>Monte Ward (HOF-1964)</td>
<td>1700</td>
<td>2400</td>
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<td>3000</td>
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<td>4250</td>
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<tr>
<td>Roger Connor (HOF-1976)</td>
<td>900</td>
<td>1200</td>
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<td>2000</td>
<td>2200</td>
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<td>3000</td>
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72. PIETRUSZA, supra note 14, at 99.
73. See ALEXANDER, supra note 7, at 53; SMITH, supra note 14, at 391. One commentator indicates that initial steps toward formation of an association had taken place earlier, and involved Chattanooga Mayor and former sportswriter William H. Volz. PIETRUSZA, supra note 14, at 99. The originally avowed purposes of the association were so lofty, in terms of helping down-and-out ballplayers and widows of former players, that the organization was embraced by owners, who invited brotherhood representatives to owners’ meetings. SMITH, supra note 14, at 391.
74. PIETRUSZA, supra note 14, at 99. Pietrusza indicates that this cap was inconsistently applied, which may be the reason none of the players in the list, in supra note 71, appear to have been affected by it. In his biography of Charles Comiskey, Axelson referred to the organization as the National Brotherhood of Baseball Players, however, he agrees that the precipitating event in the organization becoming active in labor relations was the $2,000 salary cap. AXELSON, supra note 70, at 109. The owners also agreed to no longer make advance payments of salary. PIETRUSZA, supra note 14, at 99.
75. PIETRUSZA, supra note 14, at 99.
76. ALEXANDER, supra note 7, at 53. Ward had grown up a pitcher and compiled a record of 158-102 and an earned run average of 2.03 from 1878-1884 with Providence and New York of the National League. He then trained himself as a fielder and played shortstop, second base and the outfield for New York, Brooklyn of the Players’ League, and Brooklyn of the National League, compiling a .280 batting average in 1811 games. See VOIGT, supra note 16, at 155-56; NEFT & COHEN, supra note 7, at 10. He was elected to the Hall of Fame in 1964. Id. at 628.
1885 graduate of the Columbia Law School, Ward had first tackled baseball’s reserve clause in an article prior to the 1885 season.

During the 1886 season, as the Giants traveled the league, the Brotherhood grew. Within a year, it had 107 members and a separate chapter in each National League city.

In 1887, Mike Kelly, known as the “King,” and called “the most famous baseball player in the world,” was sold by Chicago to Boston for the then astronomical price of $10,000. Kelly had no say in the deal and received none of the money. Ward again bemoaned the slave-like potential of the reserve rule, although he was careful not to argue for its total elimination. This fact probably got the Brotherhood a meeting with the owners in 1887 at which the owners agreed to consider a player-
proposed model contract and agreed to remove the salary ceiling.\textsuperscript{84} While Ward was playing on an international touring team sponsored by A.G. Spalding following the 1888 season, however, the owners not only failed to remove the salary ceiling, they turned it into a classification system. All players were grouped into one of five classes with salary set by the classification.\textsuperscript{85} When Ward and the touring troupe returned, the players were ready to strike. This fever was not diminished when owners refused to remove the classification rule after a meeting with the players. Instead of striking, however, the players set out to form their own league and the Players' League was born.\textsuperscript{86}

The players advertised their new baseball product by comparing early integrity of baseball with the present organization of owners whom the players indicated stood for "for dollars and cents," and which had power "stronger than the strongest trust."\textsuperscript{87}

Owners, to the contrary, asked the public to recall that the prior player-operated league was plagued with the "slough of corruption and disgrace" of "pool-selling and open betting," as well as "the sale of liquors."\textsuperscript{88} In a newspaper interview, Spalding was quoted as calling the Brotherhood leadership "hot-headed anarchists,"\textsuperscript{89} clearly trying to tie

\textsuperscript{84} PIETRUSZA, supra note 14, at 102-103. The meeting did result in a change in the location of the "reserve rule." Prior to this time, the rule was contained in the National Agreement among the various teams, with the players agreeing to be bound by it only because each player in an individual contract agreed to the terms of the Agreement. After this meeting, the reserve clause was placed in the individual player's contract.

\textsuperscript{85} See id.; VOIGT, supra note 16, at 158-59. Compare SPALDING, supra note 2, at 170-71. For E. classed players, salary would be $1500; for D. classed players, salary would be $1750; for C. classed players, the salary would be $2000; for B. classed players, the salary would be $2250; and for A. class players, the salary would be $2500. PIETRUSZA, supra note 14, at 103. It was rumored that only about 20 players would be classified in the A. category. VOIGT, supra note 16, at 159.

\textsuperscript{86} PIETRUSZA, supra note 14, at 103-105; VOIGT, supra note 16, at 159-160.

\textsuperscript{87} Congress enacted the first national antitrust act in July, 1890. See 15 U.S.C. § 1 (1973). It is likely the players use of this language was designed to reflect public discussion of this topic. The players indicated: "Players have been bought, sold and exchanged as though they were sheep instead of American citizens," the players manifesto and the owners response are both set forth in SPALDING, supra note 2, at 171-176. Spalding headed up the National League's "War Committee" designed to defeat the Brotherhood. See PIETRUSZA, supra note 14, at 108.

\textsuperscript{88} SPALDING, supra note 2, at 173-76. The public was also reminded that current owners had saved the game from the "destruction threatened by the dishonesty and dissipation of players," and that the players themselves had agreed to a reserve rule, making their claims of "'bondage' "'meaningless and absurd." As a result, the league "has no apology to make for its existence, or for its untarnished record of fourteen years. It stands to-day, as it has stood during that period, sponsor for the honesty and integrity of Base Ball." Id. at 173.

\textsuperscript{89} VOIGT, supra note 16, at 161 (quoting NEW YORK CLIPPER, Nov. 23, 1889).
the rebellious leaders to the seamier side of the growing American labor movement.90

When this head-to-head competition between owners and players moved to the courts, the players were the clear victors. In three cases, owners were unsuccessful in attempting to prevent a major league star from playing for a Players' League team. Two of the cases were filed by New York, one in state court, the other in federal court, in an attempt to prevent captain, and Players' League organizer John Ward, and future Hall of Fame catcher Buck Ewing, from jumping to the new league.91 The third case, filed in the Pennsylvania Court of Common Pleas, was by Philadelphia of the National League against infielder Billy Hallman.92 All three of the cases involved virtually identical facts and theories. Ward, Ewing, and Hallman's 1889 player contracts contained a provision allowing the team to "reserve" each of them "for the next ensuing season" provided that their salary would not be less than in the 1889 contract and provided further that each was one of fourteen (14) players reserved by the club.93 In none of the agreements, however, did the "re-
serve clause” indicate the terms of the 1890 contract.

In both Ward and Hallman, the court found that the “reserve clause” did not specifically set out the terms of the reserve year agreement. As a result, the courts were asked to find a new agreement upon the same terms as the prior one. Both courts indicated this result would have to include a new “reserve clause” as there would be no basis for excluding that paragraph while excluding all others. If the new contract incorporated a new reserve clause, then the player could be reserved indefinitely on a year-to-year basis. At the same time, however, the team could discharge the player for any reason, at any time, upon ten days’ notice. Such a reading would, according to the courts, violate the concept of mutuality of remedy and specific performance could not, therefore, be granted to the team.

If the terms of the prior contract were not incorporated into the reserve year contract, then the reserve agreement had

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94. 42 F. at 201; 9 N.Y.S. at 782; 9 Pa. Cty. Ct. Rep. at 61. As the Pennsylvania Court said: “It would have been easy to have said ‘upon the terms and conditions mentioned in the agreement of 1888’ but that was not said . . . .” Id.

95. As stated by the Hallman court, the result of such a reading, is that while the defendant has sold himself for life to the plaintiffs for $1400 per annum, if they choose to hold him for that length of time, he has no hold upon them for any period longer than ten days. He is absolutely at their mercy, and may be sent adrift at the beginning or in the middle of a season, at home or two thousand miles from it, sick or well, at the mere arbitrary discretion of the plaintiffs, provided only they give him the ten days’ notice.

8 Pa. Cty. Ct. Rep. at 63. The New York court called this same scenario a “spectacle.” Compare 9 N.Y.S. at 783. Years later, however, the “arbitrary discretion” of the owners, this “spectacle” would be an accepted fact in the United States Supreme Court.

The essence of [the reserve system] is that a player is bound to the club with which he first signs a contract for the rest of his playing days. He cannot escape from the club except by retiring, and he cannot prevent the club from assigning his contract to any other club.

Flood, 407 U.S. at 290 (Marshall, J. dissenting) (emphasis added). Neither Flood, nor its predecessor Federal Base Ball Club of Baltimore v. National League, 259 U.S. 200, 42 S.Ct. 465 (1922) mentions this discussion in either Ward or Hallman. Flood does, however, cite Ewing to show that the reserve system had been in existence since 1887. See Flood, 407 U.S. at 259.

The owners would continue to argue this same theory until 1975, contending that when a Club renews a Player’s contract for the renewal year, the contract in force during that year contains the “right of renewal” clause as one of its terms, entitling the Club to renew the contract in successive years, to perpetuity, perhaps, so long as the Player is alive . . . .

In re The Twelve Clubs Comprising National League of Professional Baseball Clubs et als., 66 Lab. Arb. Rep. 101, 112 (1975) (Seitz). Arbitrator Peter Seitz acknowledged the holding of early cases like Hallman and Ward refusing to enforce the negative covenant and then held the reserve clause granted only a one year right to reserve, after which pitchers Andy Messersmith and Dave McNally became free agents. See id. at 104, 115-18.

no terms and thus was not of sufficient certainty to justify equitable intervention. In either event, the baseball player, as laborer, maintained the right to competitively shop his talents.

The federal court in *Ewing* had the benefit of the New York decision in *Ward* and the Pennsylvania decision in *Hallman* and thus spent little time reiterating that the team's contractual right to "reserve" did not translate into a certain and definite contract. Seeking certainty instead from the parties' "other contracts in respect to the same subject-matter," the *Ewing* court looked to the National Agreement fixing the common rights and obligations of all teams. Acknowledging that the players were not parties to the National Agreement, the court indicated the practical, yet indirect effect this agreement had on each player. Under the National Agreement, all player contracts were for one year and were required to run for the seven month period between April 1 and October 31. Teams were allowed to reserve up to fourteen (14) players then under a contract that would expire on October 31 by sending the names of those players to all other clubs by October 10. No team was permitted to contract with any player for the succeeding season before October 20.

As a result of this review, *Ewing* held the National Agreement did not add necessary definition to the player contract's "reserve clause." Instead, the court found, the National Agreement did just the opposite. The "reserve rule" became operational on October 10, but it could not define the terms of a player's contract, because those terms could not be set until at least October 20 when a club could first enter into a contract with the reserved player for the next season. For the court, the reserve provision of Ewing's contract meant only that the team had the exclusive right to negotiate with Ewing in an attempt to make a contract.

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99. *Id.* at 202.
100. *Id.* at 202-203. Under the National Agreement, once a team "reserved" a player, all other teams agreed they would not attempt to contract with that player. Further, if the "reserved" player refused to report to the reserving club, the club could have the player placed on the ineligible list, and no other club would contract with a player on this list. The court also acknowledged, however, that prior to 1887, the provisions of the National Agreement were incorporated into the standard player contract by a provision that obligated the player to all of the conditions of the National Agreement and required the player to keep informed of the provisions of that agreement. In 1887, at the insistence of the players, this general clause of the player contract was eliminated, and the reserve provision at issue in the case was inserted. *Id.* at 203.
101. *Id.* at 203-204.
102. *Id.*
When coupled with the National Agreement, a player was coerced into negotiating with the team, because he would be ineligible to contract with other teams. As a matter of equity, however, the reserve clause was no more than "a contract to make a contract if the parties can agree," and was not then capable of being specifically enforced.

The three player victories in the courts enabled the Players' League to lure many baseball "stars," from the National League. With future Hall of Famers like Hugh Duffy, Connie Mack, Buck Ewing, "Big Ed" Delahanty, Charles Comiskey, and "King" Kelly, the new league's stars outclassed those of the National League. While neither the Players' League nor the National League kept accurate records of attendance, at least one estimate showed the players outdrawing their former owners 981,000 to 814,000.

Having won the attendance battle and with a winning record in the

103. Id. at 204.

104. Unions are designed, in part, to permit the labor-management relationship to be based upon "personal" rather than "property" concepts. See William Forbath, Law and the Shaping of the American Labor Movement 136-137 (1991). Charles Comiskey, as reported by his biographer, in giving up his position as manager of the St. Louis National League franchise to join the Players' League, embodied this concept of unionism. Even though he knew the Players' League was doomed to ultimate failure, he joined the new league so as to maintain credibility with the other players. Axelson, supra note 70, at 112-13. Comiskey only agreed to leave the Browns, however, when guaranteed he would go to a team in Chicago. Ultimately, the site upon which Comiskey's Players' League team built its stadium for its only year of operation would become the site used by Comiskey when he purchased his American League team and ultimately the site for what became known as Comiskey Park. Id. at 111. His incursion into the Players' League also brought Comiskey to the Spalding view that players could not operate a league but instead needed a separate group of promoters to run the financial side of the game. Compare id. at 113 with Spalding, supra note 2, at 169.

105. Kelly also shared the "union" consciousness of people like Comiskey. See supra note 104. After signing with the Players' League, Kelly was offered a $10,000 signing bonus to resign with the National League, plus a blank three year contract, to which Kelly was to add a salary figure. After thinking about it, Kelly turned the money down, not because he did not want the money, but, as he told Spalding "I can't go back on the boys." Kelly then borrowed $500 from Spalding. Spalding, supra note 2, at 186-87.

106. The only major stars the National League was able to keep were Adrian "Cap" Anson, who, with Spalding, owned a part of the Chicago team, Pietrusza, supra note 14, at 115, and Harry Wright, the longtime player-manager. See Voigt, supra note 16, at 164.

107. Pietrusza, supra note 14, at 121. See also Durso, supra note 8, at 47. The actual numbers were 980,887 for the Players' League, 813,678 for the National League and approximately 500,000 for the American Association. Id. These figures apparently come from both the Daily Globe (Boston) and Reach's Official Base Ball Guide of 1891. See Voigt, supra note 16, at 166 n.29.

108. But see Alexander, supra note 7, at 57-58 (noting that the 1890 season was characterized by low attendance in all leagues). "Confused and disgusted by three leagues, the vituperation flying back and forth, and the numerous player desertions and additions, the customers [had] stayed away in droves." Id. For the fan who maintained an interest in base-
courts, the Players' League showed considerable promise.\textsuperscript{109} Players' League owners soon found, however, that trying to compete with organized baseball was not worth the high cost.\textsuperscript{110} Unprepared to face another season of mounting individual losses, the financial backers behind the Players' League, in a series of October and November 1890 meetings with National League owners, either sold out to, or consolidated with,
National League teams. By November 22, 1890, the Players' League no longer existed.\textsuperscript{111} All Players' League players were absolved of any violations of baseball rules, and most were allowed to return to their original National League or American Association teams.\textsuperscript{112} Although the

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\item[111.] Apparently flush with success from the purchase of the Cincinnati team, but also aware of the financial losses suffered by the league's financial backers, Players' League organizer John Ward sought a meeting with National League owners for the purpose of gaining full major league status for the new league. See Pietrusza, supra note 14, at 121; see also Voigt, supra note 16, at 167 (indicating that following Ward's proposal for a truce under which the Players' League would receive major league recognition, it was the National League owners who initiated a meeting). Spalding claims the players came to him seeking a truce, which he refused in the absence of a total surrender. Spalding, supra note 2, at 181. What became clear as October unfolded was that several of the Players' League owners wanted out. Three of them met with Spalding and offered complete surrender, after which a group of three representatives from the National League, the Players' League and the American Association began negotiations toward a peaceful resolution of the multi-league strife. The Players' League delegation did not include any of the players who ran the league. When Ward and two other players were thereafter added to the negotiating team, neither the National League nor the American Association representatives would meet with a player-represented delegation. Alexander, supra note 7, at 58; Pietrusza, supra note 14, at 123; Voigt, supra note 16, at 167. Spalding saw himself as a General Grant, dictating the terms of surrender to Robert E. Lee at Appomattox. Spalding, supra note 2, at 181-82.

Part of the problem for the Players' League financial backers was undoubtedly the conduct of the players themselves. Throughout the season, the players had shown little discipline. Voigt, supra note 29, at 214. Comparisons with the already failed National Association of Professional Base Ball Players would not be unwarranted, a fact not lost on Spalding who claimed that the failure of the Players' League settled forever the proposition that players could successfully operate a league. Spalding, supra note 2, at 77.

When the dust settled, only Boston of the Players' League actually made money. Id. at 215. Buffalo, New York, and Pittsburgh all collapsed quickly after negotiations with the National League began. By November only Boston, Philadelphia and Chicago were still in the Players' League fold. Within ten days, Chicago had been sold into consolidation to Spalding and by November 22, the league was evicted from its offices. Compare Alexander, supra note 7, at 58; Pietrusza, supra note 14, at 125-26; Voigt, supra note 16, at 167-68.

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\item[112.] The owners won such a complete victory over the players that "War Committee" members like Spalding could afford to be "[m]agnanimous." Voigt, supra note 16, at 168. Even Ward was welcomed back into the league. Voigt, supra note 29, at 215. The "reserve" lists from the 1889 rosters of National League and American Association teams were supposed to determine ownership rights to the players who jumped to the new league. Alexander, supra note 7, at 59. Disputes over rights to players were to be settled by a newly created National Board, made up of the presidents of the three principal remaining leagues—the National League, the American Association, and the Western Association. Id. at 59-60. One of the problems that arose was the signing, by the National League, of infielder Louis Bierbauer and outfielder Harry Stovey, both of whom had played for Philadelphia in the American Association in 1889. See Pietrusza, supra note 14, at 127. Stovey was clearly the more important player, having batted .404 in 1884 and .402 in 1887, thereafter finishing with a career batting average of .320 in 1420 games. Bierbauer had a career average of .275 in 1380 games, however, his best year was 1890, the year he jumped to Brooklyn of the Players' League, when he hit .319. Ronald Encyclopedia of Baseball, supra note 19, at 12-185, 12-14. One author indicates both players were signed by Pittsburgh, while another indicates that
American Association did not survive the Brotherhood dispute, the reserve clause, in a slightly altered form, and the salary scale did, even with the players accepting the notion that baseball was no longer a sport, but a business.

With no labor friction, baseball became something of a syndicated

Bierbauer was signed by Pittsburgh, while Stovey was signed by Boston. Compare Pietrusza, supra note 14, at 127 with Alexander, supra note 7, at 59-60. The latter report seems more likely to be true as Stovey is listed as playing with Boston of the Players' League in 1890 and Boston of the National League in 1891. Ronald Encyclopedia of Baseball, supra note 19, at 12-185. In either event, however, the signing of these two players was apparently legal, as Philadelphia had not reserved either after the 1889 season. Pietrusza, supra note 14, at 127. These actions, however, led to increased tensions between the National League and the American Association and led to the Pittsburgh team being decried as "pirates," a name that quickly stuck. Alexander, supra note 7, at 59-60.

During the war with the Players' League, rumors were rife of a possible consolidation between the Players' League and the American Association. Pietrusza, supra note 14, at 120. Following the signing by the National League of two former Philadelphia association players, see note 112, the Association refused to abide by the newly enacted National Agreement, thereby rendering all Association players "free agents." Alexander, supra note 7, at 60. The American Association, badly hurt financially in the Players' League war, was not able to successfully compete for players. Id. The Association lost a battle for Cincinnati, which had been awarded both National and American Association teams for 1891, when the Association team was turned over to the league and moved to Milwaukee. Pietrusza, supra note 14, at 127; Alexander, supra note 7, at 60-61. By the end of 1891, Baltimore, St. Louis, Washington and Louisville were brought into the National League, although Washington was brought in under new ownership. Pietrusza, supra note 14, at 128. The remaining teams, Boston (which had won the 1891 Association pennant), Philadelphia, Columbus, Cincinnati/Milwaukee and Chicago were bought out for a total of about $135,000 split among the 12 teams in the newly combined National League and American Association of Professional Baseball Clubs. See id.; Alexander, supra note 7, at 62. Thereafter, yet another National Agreement was signed, this one for the first time incorporating a draft that designated minor league teams as either "A" clubs, from whom the major league could draft players, or "B" clubs, from whom "A" clubs could draft players. Alexander, supra note 7, at 62-63.

Although there was talk of reviving the American Association, first in 1894 and then again in 1899, both attempts were unsuccessful. See Pietrusza, supra note 14, at 128-144.

It was now called an "option to renew." Voigt, supra note 16, at 168. A similar type contract would later be used by Organized Baseball while fighting the Federal League, discussed infra beginning with text at note 156. Under such an "option to renew," part of the player's salary was paid as consideration for the option the player gave the club to reserve the player for an additional season, under the same terms and conditions as previously existed. Compare American League Baseball Club of Chicago v. Chase, 149 N.Y.S. 6, 9-10 (Sup. Ct. 1914), discussed infra beginning at text accompanying note 198.

The death of the Players' League represented the last significant attempt by players to organize on their own until the 1970s. See Voigt, supra note 16, at 168. The players had been
trust, with the owners its "magnates." The game, however, was not entirely profitable. Unfortunately, these "magnates" did not think about dividing their twelve team league to produce the kind of post-season championship that had previously been held with the American Association. Attempts to split the season and to have both half winners meet for a championship met with claims of slack play against the first half winner.

By the end of the decade, without a winning team in New York, professional baseball struggled to survive. While the press claimed the National League suffered from feudal owners who could not tolerate any central management, Spalding claimed that it was the Spanish American War in 1898 that caused economic conditions to change. It made the

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Harold Seymour called the era "syndicate ball" because of the interlocking directorships of the various clubs. Baseball historian called the era "syndicate ball" because of the interlocking directorships of the various clubs. Seymour, supra note 8, at 15-16.

118. ALEXANDER, supra note 7, at 63.

119. Id. Such charges were aided by the extent of cross-ownership, as discussed in note 117, supra.

120. ALEXANDER, supra note 7, at 69. This was as opposed to "semi-pro" baseball, all of the noncollege adult teams around the country, from those playing in sandlots, to those organized by resort hotels whose players were nominal waiters and busboys, and full time players. Id. at 70-71.

121. Id. at 76.
game less profitable and caused owners to reduce the league to eight teams following the 1899 season. Gone were financially ailing franchises in Louisville, Cleveland, Baltimore, and Washington. The press thought it might be time for a new league.

VI. The American League

Two individuals who evidently agreed with the press assessment were Ban Johnson, then president of the Western League, and Charles Comiskey, then the Cincinnati National League team manager. While

123. See id. at 188; Pietrusza, supra note 14, at 134.
124. Alexander, supra note 7, at 76.
125. The Western League was the third participant in the National Agreement signed following the death of the Players' League. It was actually a midwestern league made up of teams from Indiana, Ohio, Michigan, Iowa, Missouri, Nebraska, Minnesota, Wisconsin, and (in 1900 only) New York. Its final league standings from the years 1894-99 are contained in Pietrusza, supra note 14, at 335-37. The president of the Western League was former law student-former sports writer Ban Johnson who, despite the lackluster performance of major league baseball during the 1890s generally, made the Western League a financial success, largely by providing the strong leadership the National League lacked. See Alexander, supra note 7, at 76. While a sports writer in Cincinnati, Johnson first met then Cincinnati player Charles Comiskey. See Axelson, supra note 70, at 126-27. During the life of the Players' League, Johnson also met Al Johnson who, along with his brother, the mayor of Cleveland, had made a lot of money in the streetcar business. See Pietrusza, supra note 14, at 105. Al Johnson became a prime financial backer of the Players' League. When the Players' League purchased the Cincinnati National League club, see supra note 109, Al Johnson was one of the purchasers. After the Players' League folded, Al Johnson wanted to own the Cincinnati team, however John Brush, the owner of the Indianapolis Western Association team, persuaded the league to award Cincinnati to Brush, expelling Al Johnson's team. Thereafter, Ban Johnson often criticized Brush for absentee ownership, ultimately causing Brush to withdraw Ban Johnson's press pass to Cincinnati games. Eugene C. Murdock, Ban Johnson Czar of Baseball 21, 28-29 (1982). When Cincinnati manager Comiskey suggested Ban Johnson as a potential president of the Western League, Brush was presented with an opportunity to keep Johnson away from Cincinnati. Axelson, supra note 70, at 126-27. The Western League had started as the Northwestern League in 1879 and had been financially starved from the outset. It played no seasons in 1880-82 and 1885. In 1888, it became the Western Association, again with great financial success. In 1892, it changed its name to the Western League, but was only able to continue operations until July 4. Murdock, supra at 30.

Comiskey was not an immediate owner in the League although it was he, along with Johnson, who conceived a revived association. Id. at 31. Comiskey's managerial contract with Cincinnati did not end until 1894 and, although Brush offered him a new, financially lucrative contract to continue managing, Comiskey sought and was awarded the Sioux City Western League franchise in November, 1894. Axelson, supra note 70, at 128-29; Murdock, supra at 33. He moved it to St. Paul after a Western League committee had determined that St. Paul was a good site for baseball. Id.

126. Johnson biographer Eugene Murdock indicates that ideas for restructuring the Western League may have been conceived over drinks by Johnson and Comiskey, but were more
likely an outgrowth of a scouting trip Comiskey took in the South following the 1893 season. During the trip, Comiskey met owners of both Toledo and Kansas City of the Western League, who told of the ill fated 1892 season, but of their plans to make an attempt to revive the league in 1893. Comiskey evidently suggested Johnson as a likely president for the revived league. MURDOCK, supra note 125, at 31. Comiskey biographer G.W. Axelson indicates that the League was an outgrowth of Comiskey's secret desire to return to Chicago following the collapse of his brotherhood team. "To locate [in Chicago] meant everything to the minor league magnate. Chicago was the pivot of the American League venture." Axelson also claims that Comiskey wanted a second major league team from the outset. AXELSON, supra note 70, at 141-43.

After a successful 1894 season, Johnson was convinced that he should go back into newspaper reporting. Before he was able to submit his resignation at the league's annual meeting, however, he learned that John Brush was trying to block reappointment of Johnson for a subsequent term. This caused Johnson to change his mind and seek to retain the job and he was reelected without a dissenting vote. Id. From the 1894 through 1899 seasons, Johnson was able to withstand numerous problems that might have jeopardized other leagues. Among them were attempts to oust him from the league's leadership. Id. at 32-33. Johnson had overcome difficulties with the National League's drafting practices. See id. at 34-38. Drafting was the way the National League took players from lower leagues, including the Western League. In 1894, the National League paid $500 to the lower league club whenever a player was "drafted" from the lower club's roster; a figure that was raised to $1,000 in 1895 and then lowered back to $500. The effect on the Western League was sometimes catastrophic because teams in the National League were allowed to take all of the good players previously developed by the Western League. Worse, when drafted players were no longer needed in the National League, they were sent back to leagues like the Western, but to different teams, thus doubling the harm done. The only team that did not feel the pinch caused by drafting was Indianapolis, owned by major league owner Brush. Brush continually "farmed" his players from one club to the other depending on what was needed. See id. As a result, Indianapolis won the Western league in 1895, 1897, and 1899 and finished second in 1896 and 1898. PIETRUSZA, supra note 14, at 335-37. Another problem for Johnson were attempts to disband the league. See MURDOCK, supra note 125, at 37-38. In 1896, Johnson nemesis Brush tried to set up a trust within the league, by combining with the then Minneapolis owner to control four league teams. This plan failed, but Brush then tried to have the National Board, in control of baseball under the National Agreement, refuse to recognize four Western League teams, and recognize instead four Brush-controlled franchises in the same cities. Johnson and his attorney, Philadelphia part owner John Rogers, convinced the National Board that the decision as to whom franchises should be awarded in league cities was really an issue of internal Western League concern and that the National Board should not become involved. Johnson continuously attempted to back his umpires against rowdy fans and players, but numerous efforts to rigidly control discipline were unsuccessful. See MURDOCK, supra note 125, at 39-41. Finally, Johnson overcame disputed player claims within the league. Id. at 32. As a result, even A.G. Spalding recognized Johnson as "one of the ablest and most consistent Base Ball men the game has ever produced." SPALDING, supra note 2, at 188. One of the more astute abilities of Johnson was his ability to bring investors into his league. As Comiskey's biographer indicates in discussing Johnson's discovery of Charles W. Somers of Cleveland: "Somers was a baseball fan in Cleveland—one of those enthusiasts who went to bed with a baseball guide under his pillow. In addition... Mr. Somers had a bank account which, at this juncture, was of great importance." AXELSON, supra note 70, at 143. Somers had made
When the National League jettisoned Baltimore, Washington, Louisville and Cleveland following the 1899 season, Johnson and Comiskey were poised to raise their league from minor to major league status. First, in 1900 the name was changed from Western to American League and the league moved into direct competition with the National League in Chicago. In addition, in 1900, the American League moved into the National League’s vacated city of Cleveland. As a result, during the 1900 season, the American League had teams in Chicago, Cleveland, Indianapolis, Detroit, Buffalo, Kansas City, Milwaukee, and Minneapolis. The league, however was not considered a major league.

his money in coal and would eventually fund American League baseball clubs in Cleveland, Boston, Chicago and Philadelphia. See AXELSON, supra note 70, at 136-43. Contrary to the opinions of some sportswriters who claim that Johnson and Comiskey simply took advantage of existing business conditions to form the American League, or that their move was designed to prevent the formation of a new American Association, or Spalding’s claim that the American League came into existence because of certain National League owner’s attempts to create a baseball “trust,” Comiskey biographer Axelson indicates that Johnson and Comiskey had always intended the American League to rival the National, but were simply waiting for the right moment. See id. Johnson biographer Murdock agrees in principal by stating that “Johnson always believed that the country could support two big leagues and that the larger cities could support two teams.” Id. at 43-45.

Comiskey considered Chicago to be the “hub” of the American League, as league headquarters was there (as had been the headquarters of the predecessor Western League). See AXELSON, supra note 70, at 136-37. As a result, while he negotiated with James Hart, the president of Chicago’s National League team for the right to move an American team into Chicago, Comiskey had already rented a playing field for his team, Id. at 139, thus adding credence to the notion that the American League had long been planned as a rival major league, peaceably if possible, through war if necessary. See id. at 142. Ultimately, Hart and Comiskey agreed that Comiskey could bring his St. Paul team to Chicago provided he built his stadium on the south side of town, near the stockyards, and provided that his use of the name “White Sox,” was not prefaced by the city name “Chicago.” MURDOCK, supra note 125, at 44; see also PIETRUSZA, supra note 14, at 150.

This was also part of an agreement between Johnson and James Hart of the Chicago Nationals. Johnson agreed to respect the National Agreement and to pay cash for improvements to the stadium in Cleveland, and further agreed to allow Hart to select two players per year. PIETRUSZA, supra note 14, at 150; see also MURDOCK, supra note 125, at 44. Johnson had, however, made it clear that he was prepared to abandon the National Agreement if he did not get permission to make these moves. AXELSON, supra note 70, at 136.

The Grand Rapids team of the Western League moved into Cleveland. MURDOCK, supra note 125, at 44.

See PIETRUSZA, supra note 14, at 150. The not-to-be-called “Chicago” White Sox won the league, finishing ahead of the Milwaukee Brewers, Indianapolis Hoosiers, Detroit Tigers, Kansas City Blues, Cleveland Spiders, Buffalo Bisons, and Minneapolis Millers. Id. at 33.
Following the 1900 season, several factors coalesced to change that status:

First, the former Western League's five year ascent to the National Agreement expired on October 20, 1900. With a change in name to the American League and expansion into Chicago and Cleveland, its role within the structure of Organized Baseball had to change. Johnson, in an effort to accomplish this change, thus purposefully neglected to sign the agreement for another year.

Second, ongoing talk of a revived American Association continued throughout the late 1890s and into 1900. This threat of a new rival allowed Johnson to buttress his plan to move the American League eastward under the guise of refusing to sign an extension of the National Agreement.

The National League simply ignored Johnson's threat to move into eastern cities and instead began to align with a revived American/"National" Association. As a result, Johnson eliminated Kansas City, Minneapolis, and Indianapolis for the 1901 season and moved into Baltimore and Washington, neither of which had a major league team, and Philadelphia, which had the National League Phillies. Additionally, Buffalo moved into the Eastern League and the American League started a new team in Boston, again in direct competition with the National League.

132. See Murdock, supra note 125, at 44-46.
133. Axelsson, supra note 70, at 144-45; Pietrusza, supra note 14, at 153.
134. Adrian "Cap" Anson, then retired, was elected president of a reorganized Association in 1899, although the league did not really form until September 1900. Murdock, supra note 125, at 45. This version of the Association was clearly the brainchild of Sporting Life publisher Francis Richter. In his magazine, Richter took on the American League, claiming that only three of the league's eight clubs (Chicago, Milwaukee, and Kansas City) had actually made money during the 1900 season. This was important because Richter's new league planned to put teams in two of those cities, Chicago and Milwaukee. See Pietrusza, supra note 14, at 154-55. Richter organized a six league team in September, 1900 and planned to field teams in Baltimore, Philadelphia, Boston, and St. Louis, in addition to Chicago and Milwaukee. Id. at 154. Few, however, gave this league much chance of success. See Murdock, supra note 125, at 45; Pietrusza, supra note 14, at 154-55.
135. In a November 1900 letter to the National League, Johnson wrote: "For two years we have been menaced by the possible formation of a league hostile to our interest and detrimental in many ways to Organized Baseball. This annual agitation is hurtful and we propose to shape our organization as to check it in the future." Pietrusza, supra note 14, at 154.
136. See Murdock, supra note 125, at 46; Pietrusza, supra note 14, at 155-56. The move to Washington was actually made by Kansas City team owner James Manning, so the Kansas City club was not actually disbanded, but transferred. Murdock, supra note 125, at 46. Legendary baseball figure John McGraw was awarded the Baltimore franchise and now familiar baseball names Ben Shibe and Connie Mack were given the Philadelphia franchise. The real financial backing in Philadelphia, however, was Cleveland's Charles Sommers, who
The third factor leading to the upgrading of the American League from minor to major league status was labor turmoil within the National League. Lingering player grievances over baseball's $2400 salary cap and excessive fines fanned the flames, as did the major league practice of "farming" players to the minors, where salaries could be lowered despite the fact that the player was still tied to the team. The players once again sought to organize and, in June 1900, formed the Protective Association of Professional Baseball Players (PAPB), electing Pittsburgh catcher "Chief" Zimmer President and Chicago pitcher Clark Griffith Vice President. The union soon attracted over 100 players as members from the National, American and Eastern Leagues. Perhaps because baseball's laborers had not generally considered themselves unionists, or perhaps because of the failure of the Players' League, the PAPB refused support from labor leader Samuel Gompers. While this new baseball players' union did not initially favor the American League, the very fact of labor strife within organized baseball allowed Johnson to curry favor with the players. By February, 1901, Johnson had agreed to the PAPB proposed players' contract that permitted the ten day clause

also became the President of the Boston franchise. See Pietrusza, supra note 14, at 157-159; see also Murdock, supra note 125, at 46.

137. See Pietrusza, supra note 14, at 161-62. The "farming" problem can be seen in the later case of, Baseball Players' Fraternity, Inc. v. Boston American League Baseball Club, 151 N.Y.S. 557 (App. Div. 1915), aff'd., 117 N.E. 1061 (N.Y. Ct. App. 1917). Pitcher Kurt Hageman was under contract to the Boston American League Club at a salary of $400 per month. 151 N.Y.S. at 558. Ultimately, Hageman pitched in a total of 32 major league games for Boston during 1911-12, and St. Louis and Chicago of the National League in 1914. His record was 3-7 with an earned run average of 3.08. Neft & Cohen, supra note 7, at 114. After playing for Boston in 1912, Hageman was assigned to Jersey City, a minor league team, although he was paid the same salary. Later, Boston sold its option to recall Hageman from Jersey City to Denver, another minor league club, and told Hageman that he would have to make a new contract with Denver. Denver also purchased Boston's right to reserve Hageman. Denver offered him only $250 per month and Hageman refused. He reported for duty to Boston, to whom he claimed he was under contract and, when he was not paid, he sued to collect the two months salary remaining on his contract. This claim was ultimately assigned to the plaintiff protective association. 151 N.Y.S. at 558, 563. By the time of this case, major league rules had changed and Hageman could not be assigned to a minor league club until he had been offered on waivers to all other major league teams and refused. As a result, the players' fraternity was successful in its suit against the Boston team. Id. at 562-63. Prior to the merger of American and National leagues, however, the action by Boston in assigning Hageman to Denver and requiring him to make a new contract for less money with Denver would have been permitted. Compare Pietrusza, supra note 14, at 161-62.

138. Pietrusza, supra note 14, at 162.

139. See Seymour, supra note 8, at 170. "[T]he ball player flinches from unionism because its blue-collar connotations might detract from the public's and his own view of himself." Id.

140. Pietrusza, supra note 14, at 162.
to apply to both player and team, prohibited "farming" without the player's consent, created health benefits for players, and adopted an arbitration board for player disputes.\textsuperscript{141} At the same time, Johnson claimed the American League would not sign players until after their contracts with National League teams had expired. Because Johnson believed, however, that the "reserve" clause was illegal, American League clubs were permitted to sign players whose only tie to their National League team was the "reserve" claim of the National League team.\textsuperscript{142} Whatever their decision about when to sign players, the fact is that American League owners did sign National Leaguers to American League contracts, thus prompting another round of lawsuits by organized baseball.

Because Philadelphia was one of the cities of direct competition between the National and American Leagues, it was natural that it should be a focal point of attention for National League owners and lawyers.\textsuperscript{143} When, under cover of darkness, Clark Griffith stole into Philadelphia and signed future Hall of Famer Napoleon Lajoie away from the Phillies to a Philadelphia A's contract, the American League gained almost instant respectability.\textsuperscript{144} In what was considered a test case of the enforceability of player contracts,\textsuperscript{145} Philadelphia's National League Phillies sought injunctive relief preventing Lajoie and others signed by Griffith from playing with the rival A's. The case was heard in April 1901, with Lajoie arguing that the reserve rule was unenforceable and the Phillies arguing the clause as essential to the existence of professional baseball. In May, the trial court denied injunctive relief, thus allowing Lajoie to play for the A's,\textsuperscript{146} and opening the floodgates for other National Leagu-

\begin{enumerate}
\item \textsuperscript{141} See MURDOCK, supra note 125, at 47; PIETRUSZA, supra note 14, at 162-63.
\item \textsuperscript{142} MURDOCK, supra note 125, at 47-48.
\item \textsuperscript{143} It was believed the battle for recognition would be won or lost in Chicago and Philadelphia, the cities that had both a National and American League club. See id. at 48.
\item \textsuperscript{144} Id. Also signed from the Phillies for the A's were pitchers Bill Bernhard and Charles Fraser. Lajoie had batted .328, .363, .328, .380, and .346 in his previous seasons with the Phillies. In 1897, he was the league's home run champion. RONALD ENCYCLOPEDIA OF BASEBALL, supra note 19, 2-50 at 12-107. He was elected with the second class to the Hall of Fame in 1937. NEFT & COHEN, supra note 7, at 628. Bernhard had a combined pitching record of 20-16 with the Phillies during the 1899 and 1900 seasons, his first two in major league baseball. Fraser, who had played from 1896-1898 with Louisville and Cleveland of the National League before moving to Philadelphia in 1899 had a record of 37-23 during 1899 and 1900 with the Phillies. RONALD ENCYCLOPEDIA OF BASEBALL, supra note 19, at 13-9, 13-43.
\item \textsuperscript{145} MURDOCK, supra note 125, at 48.
\item \textsuperscript{146} Id.
\end{enumerate}
ers to join the American League. Again, competition meant higher salaries for the players and greater bargaining power for the fledgling players' association. The American League's euphoria was, however, somewhat short-lived.

Playing for Hall of Fame manager Connie Mack in 1901, Lajoie won the American League's triple crown, batting .426, amassing 125 runs batted in and hitting 14 home runs. His outstanding 1901 season may have been his undoing in court, however, because in April, 1902, the Supreme Court of Pennsylvania overturned the lower court and ruled that Lajoie's talents were unique, thus meeting one of the elements of the Phillies' suit seeking specific performance.

Turning to "mutuality," the supreme court noted that Lajoie's contract was one negotiated for three years, and provided for renewal on six

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147. PIETRUSZA, supra note 14, at 163-64 (reporting that somewhere between 92-111 of the 182 players who played in the American League during 1901 were former National League players).

148. See NEFT & COHEN, supra note 7, at 12. Lajoie, who had been making $2600 with the Phillies, was paid either $4000 or $5000 to play for the A's. More importantly, the entire amount was placed on deposit in a bank and available to Lajoie through two friends. When Lajoie was later sold to the Cleveland American League team, see text accompanying note 164 infra, he was guaranteed a salary of either $25,000 for 3 or $30,000 for 4 years. PIETRUSZA, supra note 14, at 164. Even choosing the lower $30,000 over 4 year figure, as a direct result of competition for his services, Lajoie's salary increased from $2,600 in 1900 to $7,500 in 1903, his first full year with Cleveland, an increase of 288%.

The PAPB "fizzled out" when the American and National Leagues merged. SEYMOUR, supra note 8, at 170.

149. PIETRUSZA, supra note 14, at 164. He also led the league in runs (145), hits (232 in 136 games), doubles (48), total bases (350), on-base percentage (.451), and slugging percentage (.643). Id. at 337. His batting average of .422 ranks second to Rogers Hornsby's .424 for the St. Louis Cardinals in 1924 in all time season high batting averages. See NEFT & COHEN, supra note 7, at 646.

150. The trial court had found that Lajoie could be considered "unique" only if his services were such as "to render it impossible to replace him." Philadelphia Ball Club v. Lajoie, 202 Pa. 210, 216, 51 A. 973, 973 (1902). The supreme court found this view to be "extreme," finding instead that Lajoie had played for the Phillies for several years and had thus become familiar with the "action and methods of the other players in the club." 202 Pa. at 217, 51 A. at 974. It was found that Lajoie's work itself was "peculiarly meritorious." Id. Finally, Lajoie is well known, and has great reputation among the patrons of the sport, for ability in the position which he filled, and was thus a most attractive drawing card for the public. He may not be the sun in the baseball firmament, but he is certainly a bright, particular star.

Id. As a result, the court defined uniqueness as services that "are of such a unique character, and display such a special knowledge, skill and ability as renders them of peculiar value to the plaintiff, and so difficult of substitution that their loss will produce irreparable injury, in the legal significance of the term, to the plaintiff." Id. Under such conditions, those services would not be capable of redress by money damages, and, as a result, equitable intervention would be justified. Id.
month intervals.\textsuperscript{151} As such, the agreement was different than player contracts in earlier cases for two reasons.

First, the contract was nonstandard because it gave the Philadelphia club an option to renew for the 1901, 1902, and 1903 seasons, instead of the regular one year renewal.\textsuperscript{152} As a result, the question before the court was not whether to renew a prior completed agreement with uncertain terms. The issue in \textit{Lajoie} was the equities of the parties to an agreement "partially executed by services rendered."\textsuperscript{153} Because the team had fully performed and changed its position in reliance on the performance of the superb second baseman, the court found it "inequitable to permit the defendant to withdraw from the agreement at this late date."\textsuperscript{154} As a result of this nonstandard right of renewal, the court concluded that Lajoie had "deliberately accepted" the terms of the agreement.\textsuperscript{155}

Second, the "reserve" clause itself was different than those at issue in earlier cases. Under paragraph 18 of the agreement, the right to reserve was a part of Lajoie's consideration, for which Philadelphia in turn agreed "to pay him for his services . . . the sum of $2400."\textsuperscript{156} While the contract thus looked harsh because it gave the club the right to terminate on ten days' notice, and gave the player no right to terminate, the court concluded that "the fact of this concession to the plaintiff is distinctly pointed out as part of the consideration for the large salary paid to the defendant . . . ."\textsuperscript{157} As a result, the court found the provisions to have been bargained for by the parties and, when coupled with specific contractual authority to enjoin Lajoie from playing elsewhere, the court looked only to whether there was any showing of an attempt to overreach by the Club.\textsuperscript{158} The fact that the court found no "indications of . . . unfairness,"\textsuperscript{159} probably means the court did not understand this new "option to renew"-type reserve clause and that its negative impact was not effectively argued. The legendary Ty Cobb, however, later explained the significance of this clause:

\begin{itemize}
  \item \textsuperscript{151} 202 Pa. at 218, 51 A. at 974.
  \item \textsuperscript{152} See id.
  \item \textsuperscript{153} Id. As a result, "the situation is not now the same as when the contract was wholly executory," as would have been the case when the formal contract expired and a single "reserve" year contract was about to spring into existence. Id.
  \item \textsuperscript{154} 202 Pa. at 219, 51 A. at 974.
  \item \textsuperscript{155} 202 Pa. at 218, 51 A. at 974.
  \item \textsuperscript{156} Id.
  \item \textsuperscript{157} 202 Pa. at 219, 51 A. at 975.
  \item \textsuperscript{158} 202 Pa. at 219, 222, 51 A. at 975-76.
  \item \textsuperscript{159} 202 Pa. at 222, 51 A. at 976.
\end{itemize}
Now an option contract was issued by the AL and NL by which the player reserved his own services to his team for the following season, and paid for the reservation out of his salary. By signing, the player tacitly agreed to put himself on option (the club's option, not his), and so rendered the courts unable to act. As smooth as goose grease was this agreement, and few players understood the number of rights they signed away.\footnote{160}

Consideration for the option, then, was the salary the player would otherwise have been paid to play baseball, even without the option. That Lajoie's option agreement might lack consideration or be otherwise equitably unfair was apparently not raised.

Following remand to the trial court,\footnote{161} Lajoie was enjoined from playing for another team during the term of his agreement with the Phillies.\footnote{162} What was considered a "great victory" for the National League,\footnote{163} however, was short-lived, both practically and legally.

As a practical matter, when it was determined that an action alleging violation of the injunction would have to be filed in Pennsylvania, Connie Mack sold Lajoie to the American League Cleveland Bronchos, who guaranteed Lajoie $25,000 for three seasons. Attempts by the Phillies to have the Ohio courts enforce the Pennsylvania injunction failed, and Lajoie played in all American League cities except Philadelphia.\footnote{164}

As a legal matter, the Lajoie victory caused the National League to institute two other suits.\footnote{165} The courts in both cases, however, did not concur in the Lajoie precedent.

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\footnote{160}{TY COBB & AL STUMP, MY LIFE IN BASEBALL: THE TRUE RECORD 108 (1961).}
\footnote{161}{Lajoie, 202 Pa. at 222, 51 A. at 976.}
\footnote{162}{PIETRUSZA, supra note 14, at 164.}
\footnote{163}{Id.}
\footnote{164}{Id. at 164-65. Following the Pennsylvania Supreme Court ruling, Charles Fraser re-signed with Philadelphia, while Bernhard, Lajoie and another affected Phillie, Elmer Flick, were unable to reach agreement with the Phillies. Compare id. with MURDOCK, supra note 125, at 54. It is said that the deal with Cleveland was made to repay Cleveland owner Charles Sommers' financial assistance in starting the Philadelphia A's. Even Ban Johnson's biographer notes, however, how strange it was for two future Hall of Famers (Lajoie and Flick, who was elected by the Committee on Veterans in 1963, NEFF & COHEN, supra note 7, at 628) to go from the A's to Cleveland, with Philadelphia getting virtually nothing in return. MURDOCK, supra note 125, at 54. Lajoie's contract was guaranteed at either $25,000 for three years or $30,000 for four. PIETRUSZA, supra note 14, at 164. After this sale, when Cleveland came to play the A's in Philadelphia, the police tried to intercept Lajoie when the team train arrived, but Lajoie alertly left the train in advance of police arrival. Id. at 165. The efforts of Lajoie (playing 86 games), Flick (playing 110 games), and Bernhard (17-6 record in 27 games) took Cleveland from a 7th place 55-82 record in 1902 to a 5th place 69-67 record in 1902. See id. at 338; NEFF & COHEN, supra note 7, at 17. Philadelphia, however, even without these stars, won the League. See id. at 16.}
\footnote{165}{See MURDOCK, supra note 125, at 54.}
In an action filed by Brooklyn of the National League against James "Deacon" McGuire, already a seventeen (17) year major league veteran catcher,\(^{166}\) the federal court rejected the National League club's request for an injunction to prevent McGuire from playing with Detroit of the American League.\(^{167}\) In a brief opinion, which did not mention the holding in *Lajoie*, the court first believed itself obligated to follow Supreme Court precedent and find a contract provision giving the owner the right to terminate the contract on ten days' notice, with no reciprocal right to the player, to be unenforceable in equity.\(^{168}\) Second, the court indicated the club failed to prove that any breach by McGuire could not be compensated by the legal remedy of damages. Without showing that the player was so unique that his services could not be substantially performed by another ballplayer, equity could not lend its aid.\(^{169}\) In the other action, St. Louis of the National League filed suit in Missouri state court seeking to enjoin pitcher Charles Harper from playing for St. Louis of the American League.\(^{170}\) While unclear from the opinion, it must be assumed that Harper was under contract for the 1901 season, that the

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166. See *RONALD ENCYCLOPEDIA OF BASEBALL*, *supra* note 19, at 12-126. McGuire started with Toledo in the American Association in 1884 and then played with Detroit and Philadelphia in the National League, Cleveland, Rochester and Washington in the American Association, and Washington in the National League before joining Brooklyn in 1899. Eventually, he would play for Detroit, New York, Boston and Cleveland in the American League, finishing his career in 1912 with a lifetime batting average of .279 in 1718 games, mostly at catcher. *Id.* These numbers compare favorably with more well-known and Hall of Fame catchers Yogi Berra (.285 in 2120 games), Roy Campanella (.276 in 1215 games), and Johnny Bench (.276 in 2158 games). See *NEFT & COHEN*, *supra* note 7, at 326, 327, 592.


168. 116 F. at 782-83. The court found the decision in *Rutland Marble Co. v. Ripley*, 77 U.S. (10 Wall) 339, 19 L.Ed. 955 (1870) to be controlling. In that case Rutland sought to enjoin Ripley from interfering with Rutland's right to quarry marble under a contract between them. The defendant Ripley countersued for specific performance of the agreement. In denying specific performance to Ripley, the Court pointed to the fact that, under the contract, Ripley had the right to abandon the deal for any reason, upon giving Rutland a years notice. "And it is a general principle that when—from personal incapacity, the nature of the contract, or any other cause—a contract is incapable of being enforced against one party, that party is equally incapable of enforcing it specifically against the other . . . ." *Id.* at 359. The court in *McGuire* found that although *Rutland Marble* had been questioned, it had not been overruled and was therefore binding. 116 F. at 783.


170. See *American Base Ball & Athletic Exhibition Co. v. Harper*, 54 Cent. L. J. 449 (St. Louis Cir. Ct. 1902). While the case is styled "American Base Ball" club, it was indeed filed by the National League Cardinals to prevent Harper from playing for the Browns. *See MURDOCK*, *supra* note 125, at 54-55 (indicating that outfielder John Heidrick and infielder Bobby Wallace were also named as having jumped to the American League). *See also RONALD ENCYCLOPEDIA OF BASEBALL*, *supra* note 19, at 12-83, 12-200.
club exercised its reserve for 1902 and that Harper then signed with the American League team. While it was agreed that Harper's contract contained a negative covenant preventing him from playing for other teams, it was not agreed that his services were unique. Unlike Napoleon Lajoie, who won the triple crown after the trial court decided his services were not unique, there was little evidence that Harper's abilities were at all extraordinary. As a result, the court found the evidence quite different from the evidence in Lajoie. In Harper, the team had its traditional ten day option to discharge, and the player possessed no meaningful right to reciprocate because upon team breach and player suit, the team could discharge the player and, therefore, its agreement. As a result, the court found the contract lacked mutuality. Finally, the court found major league baseball owners to be engaged in a combination to fix salaries and control the ticket prices of baseball. Any player contract only furthered that

171. See Harper, 54 Cent. L. J. at 450. "[D]efendant contracted to render services as a base ball player for the season of 1901 to wit: From April 15 to October 15, 1902 . . ." Id. (emphasis added). The logical way for the 1902 obligation to arise from the 1901 contract is by the reserve clause. If there had been an express obligation, as in Lajoie, presumably the opinion would have so stated.

172. See 54 Cent. L. J. at 450. Testimony came from a club bookkeeper, who testified as an expert that Harper was a good drawing card for the team and that, in the early part of the preceding year, he had won a number of games. Id. In fact, Harper had a record of 23-13 during the 1901 season, the best record on the club. See Neft & Cohen, supra note 7, at 15. Two players testified that Harper had been "loaned" out for the 1899 season and that they had only seen him in a couple of games in 1900. One player indicated that Harper appeared to be pretty good, while the other player had no opinion. See 54 Cent. L. J. at 450. As discussed in note 117, supra, through interlocking ownership, many of the National League teams were linked. St. Louis was under common ownership with Cleveland, Neft & Cohen, supra note 7, at 14, and that is where Harper pitched in 1899. Ronald Encyclopedia of Baseball, supra note 19, at 13-54. In 1900, Harper had a record of 0-1 with St. Louis. Id. This testimony is thus consistent with Harper's record. Therefore, Harper's record in 1901 was the only real statistical analysis upon which to show that he was unique. There was greater 1901 statistical evidence concerning the other two players, however. Heidrick, called "Snags," batted .339 and Wallace batted .322, second and third on the club behind Hall of Famer Jesse Burkett. See Neft & Cohen, supra note 7, at 15, 628.

173. 54 Cent. L. J. at 450.

174. Id. In Lajoie, the court found the fact that the team was bringing the suit indicated an absence of intention to discharge the player and that this somehow mitigated the effect of the reserve rule. See, 202 Pa. at 221. The court also found that the flexible nature of an equitable decree would permit amendment if the circumstances of the parties changed. Id. at 221-22. The judge in Harper did not find that merely bringing the suit indicated a waiver of the right to discharge. Instead, the present suit could be brought to hurt the team signing Harper, a competitor. 54 Cent. L. J. at 450. Additionally, the fact that the injunction could be later modified would not place the player in the same position the player was in before the injunction. Id.
combination. If the combination was then illegal, the court could not grant one of the members of the combination equitable relief. As did the federal court in *McGuire*, the *Harper* court then denied injunctive relief to the team, thus allowing the players to perform for the American League team.

As a result of the ruling in the federal and Missouri courts, any superiority gained by the National League by the *Lajoie* decision was lost. With court victories thus allowing it to continue to entice players away from the National League, the American league won the battle for fan appeal in 1902, outdrawing the National League by over 500,000 fans. When the American League then transferred the Baltimore club to New York after the 1902 season, the success of the American League was virtually complete. While the National League made initial overtures

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175. 54 Cent. L. J. at 450-51. In discussing the facts as a potentially illegal combination, the court chose not to discuss Harper's other claim that the uniform contract, together with the various league rules and regulations incorporated into it, was an unconscionable contract and thereby against public policy. *Id.* at 450.

176. *See* Murdock, *supra* note 125, at 55. Following the 1901 season, even more players deserted the National League, now in the throes of internal upheaval caused by an attempt to set the league up as a true "trust," with former owners now owning a percentage of stock in a unitary National League. *See Pietrusza, supra* note 14, at 168-174. Following the 1902 season, there were yet further defections from the National to American Leagues. *Id.* at 175.

177. *See* Pietrusza, *supra* note 14, at 178. In 1901, the junior American League drew 1,683,584 while the National drew 1,920,031. In 1902, however, those numbers reversed, with the American League drawing 2,206,457 and the National 1,683,012.

178. Prior to this transfer, at the end of the 1901 season, a struggling Milwaukee club was transferred to St. Louis. John McGraw, part owner/full-time player-manager of the Baltimore club, was a notorious rowdy who consistently thwarted Ban Johnson's attempts to eliminate disruptive behavior on the field. Early in the 1902 season, Johnson suspended McGraw for five games after McGraw allegedly incited a bleacher crowd to attack an umpire. *See* Murdock, *supra* note 125, at 55. Following this suspension, McGraw was deliberately spiked in a game with Detroit. When he came back to the line-up a month later, he got into meaningless fights with both umpires, was ejected from the game and suspended indefinitely by Johnson. *Id.* Thereafter, in exchange for forgiving a $7,000 loan to start the Baltimore club, and purchase of his $6,500 in shares of the club by John Mahon, McGraw obtained his release from the club and was named manager of the New York Giants of the National League. *Id.* at 56. He remained as Giants manager from 1902 through 1932. *Ronald Encyclopedia of Baseball, supra* note 19, at 1-50. McGraw's sale of his stock to Mahon was a tactical move. Mahon was a Baltimore politician, co-stockholder of the club with McGraw, and father-in-law of Baltimore outfielder Joe Kelley. After McGraw became manager of the Giants, Mahon, now president of Baltimore, transferred his ownership interest to the attorney for the New York Giants' owner and a series of player moves designed to strengthen the Giants and weaken Baltimore were made. *Pietrusza, supra* note 14, at 159-160. The threat of a National League owner's ownership of an American League team was a cause for concern to Johnson. The player moves, however, left Baltimore with insufficient players to field a team, a technical default that caused ownership of the club to be forfeited to the league on July 18, 1902. Murdock, *supra* note 125, at 56-57.
toward returning to a twelve team league, Johnson immediately rejected the idea, correctly confident that without his assent to the National Agreement, his league would stand on its own.179

Peace was achieved between the National and American Leagues after the 1902 season. The owners prospered to the extent that, by 1910 it was believed that an average major league team had gate receipts of $382,000 annually. Player salaries were thought to deduct only $75,000 from that total and that other expenses, including a club President’s salary of $25,000, amounted to $107,000 leaving an estimated annual team profit of $200,000.180 For the player as laborer, the peace was not so beneficial. On one hand, players who violated the reserve clause of their National League contracts were allowed to continue to play, with an Arbitration Committee determining whether the player’s rights belonged to the National or American League club. On the other hand, the player had no choice but to go to the team awarded the player by the Arbitration Committee. Additionally, if the player had received money from the other club, that money had to be returned before the player would be eligible. Finally, the National League’s reserve rule remained, with clubs in both leagues agreeing to honor it.181

The merger of National and American Leagues put a temporary hold on player jumping, and thus on the labor competitiveness of the baseball player. That hold would continue until the Federal League began in 1912.

VII. The Federal League

The Federal League surfaced in 1912 as the Columbian League,182

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179. Pietrusza, supra note 14, at 179.
180. Id. at 183-84. The figures were supplied by The Sporting News.
181. Pietrusza, supra note 14, at 179-181. This agreement also fixed the locations of the teams in each league, a structure that would not change until the 1950s. The National League would have teams in Boston, New York, Brooklyn, Philadelphia, Pittsburgh, St. Louis, and Cincinnati and the American League would field teams from Boston, New York, Philadelphia, Washington, Cleveland, Detroit, Chicago, and St. Louis. Id.
182. Id. at 193. The league had three teams: St. Louis, Cleveland, and Chicago.
and suffered through a 1913 season with six (6) clubs. While its founders believed the cities chosen were large enough to accommodate another major league baseball team, the Federal League, like many of its predecessors, was founded on the premise of respect for the contracts of major league clubs. The league claimed it would sign only free agents, although it was unwilling to respect the "reserve clause" of its major league counterparts and was therefore willing to sign players whose contracts had expired.

By 1914, however, the Federal League declared itself a "major" league and competed head to head against major league teams in Brooklyn, Pittsburgh, Chicago, and St. Louis. As the league gained momentum, it gathered more financial backing and attracted more major league talent. For the baseball laborer, the new league again provided competition giving players some freedom of contract and salary leverage.

First, in contract terms, the Federal League employed a reserve clause substantively different from those used by the National and American Leagues. To invoke the clause, owners had to "reserve" players for the following season by September 15, had to agree to a salary increase of at least five percent during the reserved year, and had to unconditionally release or grant "free agency" to any player "upon ten years Federal League service." This caused the American and National Leagues again to use a renewal-type contract with its players. The theory in using this clause was to give the impression of equity by making it appear the club was paying actual consideration for the club's option. Some owners apparently thought that, like the contract nego-

183. Id. at 209. Teams originally included in the league's plan were Grand Rapids, Detroit, Chicago, Indianapolis, Kansas City, Cincinnati, and Cleveland. By the time the league actually got off the ground, however, cities changed so that the league actually opened 1913 with Chicago, Cleveland, Covington, Indianapolis, Pittsburgh, and St. Louis. By July, Covington was transferred to Kansas City. Id. at 209-12.

184. Id. at 209.

185. See id. at 212; Alexander, supra note 7, at 102. In four other cities, Kansas City, Indianapolis, Baltimore, and Buffalo, the Federal League competed against high level minor league teams. Pietrusza, supra note 14, at 212. This continued through the league's final season in 1915.

During its three year tenure, the league employed some 264 players, 81 from the major leagues and 140 from the minor leagues. Among those players, 18 breached major league and 25 minor league contracts, 63 transferred to the Federal League despite major league reserve clauses and 115 transferred despite minor league reserve clauses. Id. at 227.

186. See, e.g., Pietrusza, supra note 14, at 217-220; Seymour, supra note 8, at 199-201.


188. Compare supra note 160 and accompanying text.

189. Seymour, supra note 8, at 208-209.
tiated by Napoleon Lajoie during the American/National League dispute,190 this agreement would meet any legal objections.191

Second, in terms of salary, the wealth of Federal League owners caused salary competition and ultimately higher baseball salaries, a fact criticized by supporters of organized baseball.192 A comparison of pre- and post-Federal League salaries of "twenty important players" showed a ninety two percent (92%) increase in those players' salaries between 1913 and 1915.193

Once again, lawsuits resulted. Following the 1913 season, the Philadelphia National League team exercised its "reserve" over Bill Killefer, a catcher. Killefer quickly rejected this "reservation" and signed a contract for more money with Chicago of the Federal League. Within twelve days, Killefer was offered yet more money with his original Na-

190. See supra note 160 and accompanying text.
191. Seymour reports that Washington owner Clark Griffith was able to convince pitching great Walter Johnson of the legality of this new provision. SEYMOUR, supra note 8, at 209; see infra note 300.
192. See AXELSON, supra note 70, at 206-207.
193. SEYMOUR, supra note 8, at 206. The twenty players made a total of $76,350 in 1913 (an average of $3187). By 1915, those players made $146,550 (an average of $7327). Id. Among some of the players who jumped to the Federal League, a comparison of major league and federal league salaries shows the following:

<table>
<thead>
<tr>
<th>Name</th>
<th>Major League Salary</th>
<th>Federal Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joe Tinker</td>
<td>$5,500</td>
<td>$12,000</td>
</tr>
<tr>
<td>Arthur &quot;Vin&quot; Campbell</td>
<td>$3,200</td>
<td>$8,500</td>
</tr>
<tr>
<td>Claude Cooper</td>
<td>$2,500</td>
<td>$7,500</td>
</tr>
<tr>
<td>Cy &quot;Jinx&quot; Falkenberg</td>
<td>$4,000</td>
<td>$8,500</td>
</tr>
<tr>
<td>Benny Kauff</td>
<td>$2,000</td>
<td>$7,500</td>
</tr>
<tr>
<td>Tom Seaton</td>
<td>$2,600</td>
<td>$8,200</td>
</tr>
<tr>
<td>Hal Chase</td>
<td>$6,000</td>
<td>$9,000</td>
</tr>
</tbody>
</table>

PIETRUSZA, supra note 14, at 232.

Competition also hurt the minor leagues. One report indicates that some seventeen minor leagues folded between 1913 and the conclusion of the 1915 season. One of the hardest hit clubs was Baltimore in the International League, which, to generate income, was forced to sell a 19 year old pitcher with some promise to Boston of the American League. The pitcher's name—Babe Ruth. ALEXANDER, supra note 7, at 103-104.

Even players who did not change leagues benefitted from the general competition for ball-players' services. Ty Cobb, who, in 1911, after winning his fourth consecutive batting title, held out to have his salary raised from $4200 to $10,000, won three more batting titles but had raised his salary only to $12,000 by the 1913 season when the Federal League became a threat. See COBB & STUMP, supra note 160, at 103-106. Cobb received his increase to $12,000 only after threat by United States Senator Hoke Smith of Cobb's home state of Georgia to investigate organized baseball for violation of federal antitrust laws. Cobb was offered a guaranteed $100,000, spread over three seasons, to sign with the Federal League. He refused, but the very possibility of his defection enabled him to raise his contract with Detroit of the American League to $15,000 per year for three years. Id. at 105-111.
tional League Club and again signed with it. The Federal League took Killefer to court in an attempt to block his play in the National League. Finding that neither the Chicago Federal League team nor Killefer had acted with clean hands, and finding that the contracts between Chicago and Killefer lacked mutuality, the court refused to prevent Killefer from rejoining Philadelphia for the 1914 season. As a result of losing this case, the Federal League refused to continue its self-imposed ban against raiding the National and American Leagues.

On June 15, 1914, Hal Chase gave his employer, the Chicago American League team, ten days notice in writing that he would no longer honor his 1914 player contract. On June 20, Chase agreed to play the balance of the 1914 season for Buffalo of the Federal League. Despite his later claim that he lost no ballplayers to the Federal League, Chicago owner Charles Comiskey, on June 25, sought and obtained what amounted to a temporary restraining order preventing Chase from playing for Buffalo. As counsel for Chase, lawyers for the Federal League sought to dissolve the restraint. In deciding this issue, the New York trial court referred to the general rule that an injunction could issue to enforce a negative covenant in an employee’s contract where the employer had shown the employee’s services to be unique or unusual. That Chase’s abilities qualified as unique was clear from the fact that the

194. SEYMOUR, supra note 8, at 203-204.
196. Id. at 170-73.
197. SEYMOUR, supra note 8, at 204-205. Agents of the Federal League attempted to attract players in spring training and even as they returned to the United States from an all-star world tour. The Federal League money was enticing to many major leaguers with longstanding financial grievances with owners. As noted by Ty Cobb:

[T]he fact was that the Feds could have salivated the American and National Leagues had they only realized the advantage they held. Players by the score were anxious to jump. The Feds could have picked off almost every star in the game—we were that sore at our bosses and the contracts they bonded us to.
COBB & STUMP, supra note 160, at 107.
199. Id. at 8.
200. AXELSON, supra note 70, at 207-208.
201. PIETRUSZA, supra note 14, at 231. Buffalo evidently knew about the temporary injunction because it tried to hide Chase, and even hired a private pilot to secretly bring him to the Buffalo ball park. The pilot was not able to obtain a plane, however, and Chase was served with the injunction in the second inning of Buffalo’s June 25 game. Id.
202. See id. at 231-32.
203. Chase, 149 N.Y.S. at 8. The negative covenant is distinguished from the affirmative covenant—that the player will play for the team. The New York courts had previously held this type of affirmative personal services contract to be unenforceable when dealing with base-
Buffalo Federal team held a “Hal Chase Day” after he agreed to play for the team. As a result, there was equitable jurisdiction to enjoin Chase from playing for Buffalo, so long as his agreement with Chicago both possessed mutuality and was not illegal. In the most in-depth analysis of baseball’s agreements with its players to date, the New York court reviewed three separate documents declarative of the correlative obligations of Chase and Chicago.

First, the court reviewed the Player’s Contract, signed both by Chase and the Chicago club. Under the contract, Chase was to be paid $6000; $4500 as salary and an additional $1500 for the club’s option to reserve him. In return, Chase agreed that he could be discharged during the contract’s term, at any time, with ten days notice. In addition, Chase agreed that he could play for “no other party” unless the club agreed in writing. Finally, Chase agreed he could be reserved and that his contract would then be renewed under the same terms and at the same salary as his current contract.


204. Chase, 149 N.Y.S. at 8. The court acknowledged the comparison that had been made in another baseball player case between the services of a baseball player and those of an actor, noting the skill needed to fill specific playing positions. As a result, loss of that player (or actor) left a void that was made worse when the player (or actor) tried to play for another team (or company). Id. (citing Ward, 9 N.Y.S. at 780-81).

205. Chase, 149 N.Y.S. at 9-10.

206. The actual terms provided:

1. The Club agrees to pay the player... a salary at the rate of $4,500 for such season; and an additional sum at the rate of $1,500... said additional sum being the consideration of the option herein reserved to the Club in clause 10 hereto... whether said option is exercised or not, making the total compensation to the player for the season herein contracted for $6,000.

* * *

7. The Club may, at any time after the beginning and prior to the completion of the period of this contract, give the player ten days["] written notice to end and determine all its liabilities and obligations hereunder; in which event the liabilities and obligations undertaken by the club shall cease... at the expiration of said ten days["]. The player, at the expiration of said ten days, shall be freed and discharged from all obligations to render service to the club.

8. The player agrees to perform for no other party during the period of this contract (unless with the written consent of the club) ....

* * *

10. The player will, at the option of the club, enter into a contract for the succeeding season upon all the terms and conditions of this contract, save as to Clauses 1 and 10, and the salary to be paid the player in the event of such renewal shall be the same as the total compensation provided for the player in Clause 1, hereto, unless it be increased or decreased by mutual agreement.

Id. at 8-10.
The second document reviewed by the court was the National Agreement. Originally executed among teams in the National League and American Association in 1889, the Agreement included minor league teams in 1901. Under the Agreement, clubs agreed to cooperate so the game could flourish. As a result, teams were generally free to govern themselves, so long as they took no action in conflict with the Agreement. Among the provisions to which all clubs pledged themselves, were agreements respecting the reserve rights of other clubs, providing an enforcement mechanism for that respect, and providing for a uniform players' contract that prohibited a waiver of the reserve rule without permission from a National Commission.

The National Agreement also created the National Commission consisting of the Presidents of the National and American Leagues and a third person chosen by them. The National Commission had the "power to construe and carry out the terms" of the Agreement. The Com-

207. See Spalding, supra note 2, at 148-149.
208. Id. at 213-214. It was the teams, major and minor, that were signers of the National Agreement that made up what was known as "Organized Baseball." Seymour, supra note 8, at 6.
210. The Agreement provided two methods of enforcement. First, a club refusing to recognize reserve rights of another club was considered an "outlaw" club and second, the agreement vested "title" in a player to the club. The provisions of the National Agreement provided:

Article VI
1. All parties to this agreement pledge themselves to recognize the right of reservation and respect contracts between players and clubs under its protection.
2. Any club or league which harbors a player who refuses to observe his contract with a club member of any party to this agreement, or to abide by its reservation, shall be considered an outlaw organization, and its claim to contractual and territorial rights ignored.
3. The right and title of a major league club to its players shall be absolute and can be terminated only by release, neglect to comply with requirements under this Agreement for reservations, or failure to fulfill its contractual obligations.

* * *

Article VIII
1. All contracts between clubs and players in the Major Leagues shall be in form prescribed by the Commission. All contracts between clubs and players in the National Association shall be in form prescribed by that Association, provided, however, that no nonreserve contract shall be entered into by any club operating under the National Agreement, until permission to do so has been first obtained from the commission.

Id. at 9-13.
211. Id. at 9. This third member was considered the President of the Commission, although receiving no salary. The only person to hold this position was Cincinnati owner August (Gerry) Herrmann. The minor leagues were excluded from Commission membership for fear they might join forces with one of the major leagues against the other. Players were
mission was the Supreme Court of Baseball, with power to interpret the National Agreement, resolve disputes between clubs, and impose discipline for violation of it.212 To fulfill its responsibilities, the Commission adopted rules. These rules were the third document reviewed by the court in Chase. The court found National Commission rules rendering invalid any nonreserve contract that had not been approved by the Commission, declaring ineligible any player who violated the reserve rule, suspending any player who failed to report to the team to which he was titled, and providing for reinstatement of such suspended player through provisions that could include a fine and a waiting period.213

From these two agreements and the resulting National Commission rules, the New York court found Chicago’s overall obligation to be the giving of ten days notice before terminating the agreement. Chase, on the other hand, was bound to the team not only for the current playing season, but also for another season at the option of the club. Because of the reserve system generally, member agreements not to sign players under contract to another team, and player suspension for violation of these provisions, the only realistic option for the player who wished to leave his current team was to abandon baseball. “Can it fairly be claimed that there is mutuality in such a contract?”214 Finding none, the court found no consideration for the negative covenant and refused fur-

also excluded however, it was the commission’s duty to protect the players. SEYMOUR, supra note 8, at 9.

212. 149 N.Y.S. at 9. See also SEYMOUR, supra note 8, at 16-17, for a compendium of much of the work of the Commission.

213. Those rules provided:

Rule 17: A nonreserve clause in the contract of a major league player without the approval of the Commission ... shall not be valid.

* * *

Rule 19: A National Agreement player, adjudged to have violated his contract, shall be declared and promulgated to be ineligible to play with or against any club in organized baseball until reinstated on his application by the Commission ... .

Rule 20: A player who fails to report to or deserts the club having title to his services shall be declared and promulgated to be disqualified as a National Agreement player until restored to good standing on his application ... . In all cases of failure to report or desertion the offender may be reinstated with or without a fine ... provided, however, that if the player shall have joined an outlaw team his application for the removal of his disability shall not be acted on within three years after the commission of the offense.

Chase, 149 N.Y.S. at 12-13.

214. Id. at 14. In Ward, 9 N.Y.S. at 783, the court used the following example to show how onerous these clauses could be: The club could exercise its option at the end of one season, thereby preventing a player from signing with another club during the off-season. Though not being paid by anyone, the player would then be barred from negotiating with any baseball team. Just prior to the start of the following season, the club could then determine it
ther injunctive relief, thereby allowing Chase to play for Buffalo.215

The owners did win one case. Cincinnati of the National League sued Armando Marsans after he signed with the St. Louis Federal League club.216 While one author indicates the court did not consider the case under the "reserve clause,"217 that is actually unclear from the opinion. The court first indicated that Cincinnati had signed Marsans and that Marsans had performed some of the obligated service. What is unknown is whether St. Louis signed the outfielder during the term of the contract with Cincinnati, or after the end of his contract during the "reserve" year, although the former seems more likely.218 The court found that Marsans' services were both "unique and extraordinary" and that Cincinnati would suffer irreparable injury without injunctive relief.219 Without reference to "mutuality" or any of the other cases previously deciding that issue, the court granted preliminary injunctive relief on the basis of uniqueness and irreparable harm, ostensibly to preserve the status quo pending trial.220 Evidently, the issue was ultimately resolved in Marsans' favor, however, as he played thirty five (35) games for the St. Louis Federals in 1915 and none for the Cincinnati Nationals.221

The Federal League produced one additional lawsuit which was unlike any of those previously filed involving players attempting to switch leagues. In January, 1915, the Federal League sued the National and

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216. Cincinnati Exhibition Co. v. Marsans, 216 F. 269 (E.D. Mo. 1914). Marsans, a Cuban-born outfielder played from 1911-1914 with Cincinnati; then played in 1915 with St. Louis of the Federal League; from 1916-17 with St. Louis of the American League; and 1918-19 with New York of the American League. In 655 major league games (including those in the Federal League), Marsans batted .269.
217. See Pietrusza, supra 14, at 231.
218. This is certainly the suggestion in the opinion: "This made a valid and binding contract, especially after the defendant entered upon the performance of the contract and received the compensation there specified during a part of the term." Cincinnati Exhibition Co., 216 F. at 269 (emphasis added). On the other hand, it was not generally Federal League strategy to sign players whose contracts had not yet expired. See supra note 184 and accompanying text.
219. See 216 F. at 269-270.
220. Id. at 270.
221. Neft & Cohen, supra note 7, at 70, 75. Baseball historian Harold Seymour indicates the injunction was dismissed. Seymour, supra note 8, at 211. Seymour provides further evidence that Marsans actually left during an ongoing contract, citing organized baseball's attorney for the proposition that actual contract-jumping was actionable, as in Lajoie and Marsans, while failing to fulfill the reserve clause was not. Id.
American leagues, alleging them to be monopolies in violation of federal antitrust law. The case, filed in Chicago, was assigned to federal Judge Kennesaw Mountain Landis. Landis refused to decide the case when a hearing was held January 20th, first asking the parties whether they wanted him to prevent the teams from going to spring training, then indicating that he did not consider baseball players to be laborers, and finally advising "any blows at the thing called baseball would be regarded by this court as a blow to a national institution." As a result, the National, American, and Federal Leagues were all in operation in 1915, at great cost. The 1900 St. Louis Cardinals, for example, drew 380,000 fans and made money, while their 1914 counterparts drew 600,000 fans and did not. Competition for players within the marketplace was the reason, a reason good for the players but not for the owners. Peace talks continued through the 1915 season, culminating in the abandonment of the Federal League in December, 1915. In February, 1916, some thirteen months after he heard testimony in the case, Judge Landis dismissed the antitrust case.

The demise of the Federal League once again left players without meaningful competition for their services. To assert economic pressure against again unified organized baseball, the players' next action was a

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222. See Pietrusza, supra note 14, at 235. Landis had a reputation as a trust-buster, having rendered a $29 million antitrust judgment against Standard Oil. He was also, however, a baseball fan, particularly of the Chicago Cubs. Id. See also Murdock, supra note 125, at 114. Seymour, supra note 8, at 212. This action was the predecessor to the action that ultimately ended in the United States Supreme Court. Compare National League of Professional Baseball Clubs v. Federal Baseball Club of Baltimore, Inc., 269 F. 681, 682, aff'd 259 U.S. 200, 42 S.Ct. 465 (1922).

223. See Murdock, supra note 125, at 114.

224. See Pietrusza, supra note 14, at 235.

225. Seymour, supra note 8, at 212.

226. Pietrusza, supra note 14, at 235; Seymour, supra note 8, at 212. Compare Justice Holmes statement in the later case: "The business is giving exhibitions of base ball, which are purely state affairs." National League of Professional Baseball Clubs, 259 U.S. at 208.

227. Murdock, supra note 125, at 115.

228. See Pietrusza, supra note 14, at 245-248. The Federal League owner in Chicago was permitted to purchase the Chicago National League team and the St. Louis Federal owner purchased the St. Louis American League team. Players who had jumped to the Federal League were removed from organized baseball's "blacklist," although none were guaranteed jobs with the remaining leagues. Id. at 248-49 (detailing other financial provisions of the agreement); Murdock, supra note 125, at 116-17.

229. Murdock, supra note 125, at 117. A new suit was filed little more than a month later by the Baltimore Federal League franchise, which had been totally ignored in the settlement to the extent the city had neither a team nor a league and its owner received none of the settlement. See id.; Pietrusza, supra note 14, at 250-51. See also National League of Professional baseball Clubs, 269 F. at 682.
traditional labor "strike." That took place in the 1918 World Series, between the Boston Red Sox and the White Sox cross-town National League rival Chicago Cubs.

VIII. 1918 Baseball "Strike"

Early in the history of the World Series, major league owners agreed that the players' share of the profits of the series would be sixty percent of the gate from the first four games. That amount was then split sixty percent to the winning team, forty percent to the loser.²³⁰ In 1918, without consulting the players, the owners amended the plan to permit the first four teams in each league to share in these same receipts.²³¹

Following the outbreak of World War I, 1918 baseball attendance generally fell to a near record low and, as a result, owners did not raise prices for World Series tickets, as had normally been the case. Nonetheless, it was predicted that the Series' participating Red Sox and Cubs' winning players would earn at least $2000 and losers at least $1400. Perhaps as a result, the players pledged ten percent of their share to the war effort.²³²

When gate attendance at the first three games of the series was also low, owners lowered their expectations and substantially reduced the shares of the series' participants. On the train from Chicago to Boston, the players agreed to strike unless winners and losers were guaranteed $1500 and $1000 respectively.²³³ The players refused to begin game five in Boston until their demands were met, and did not agree to play until being promised a post-series meeting with owners and no recriminations against striking players, after a one-hour delay.²³⁴ Following the series, however, there was no meeting, the winning Red Sox players received slightly more than $1000, the losing Cubs slightly more than $670, and all

²³⁰ SEYMOUR, supra note 8, at 253-54. Originally, the division between winner and loser was 75%/25% but this split caused players to make side deals with their opponents so as to increase the potential earnings from the series. The first four games were used as the base to prevent the players from artificially extending the series beyond the required number of games. Id.; see also WORLD SERIES ENCYCLOPEDIA 8-9 (Don Schiffer ed. 1961).

²³¹ SEYMOUR, supra note 8, at 254.

²³² Id.

²³³ Id.; WORLD SERIES ENCYCLOPEDIA, supra note 230, at 14.

²³⁴ SEYMOUR, supra note 8, at 254; WORLD SERIES ENCYCLOPEDIA, supra note 230, at 14. Seymour reports that American League President Ban Johnson arrived at game 5 "inebriated and made a maudlin appeal to the men" to continue playing. The players then recognized that no meaningful negotiations could take place with Johnson in such a condition and agreed. SEYMOUR, supra note 8, at 254-55. Another source, however, places Johnson in a better light: "President Johnson, a man of great persuasiveness, talked the players out of their demands . . . ." WORLD SERIES ENCYCLOPEDIA, supra note 230, at 14.
players were fined to the extent they were not awarded the usual me-
mentos of their participation in the World Series.235

IX. THE “STATE OF MIND” OF THE 1919 BLACK SOX

The foregoing labor history demonstrates that by opening day, 1919,
baseball was free of labor disputes, with its two leagues intact. The play-
ers who remained found that the courts had protected them from the
onerousness of the reserve clause, thus permitting them to shop their
skills to the highest bidder. As a result of organized baseball’s system-
atic destruction of that competition, however, those same players were
left with no meaningful choice in contracting to play baseball. They
could individually “hold-out,” refusing to sign contracts with their own-
ers, but such actions rarely succeeded. With no competition and the re-
serve rule intact, owners possessed “extra-legal means of coercion” such
as refusing to pay for a hold-out’s travel to spring training or fining a
player who reported late or played in an outlaw league.236 The players
had no union, but even if they had organized themselves, the White Sox’
1918 Red Sox and Cubs colleagues had found that concerted action by
baseball’s laborers, even to the point of strike, was futile. Worse, it led
to further repression.

What would have been apparent to members of the 1919 White Sox
was that on the field, each was an important part of a team effort leading
toward a World’s Championship. Off the field, the relationship between
player and owner had not changed since the earliest days of professional
baseball. Despite the great strides made by American labor in its rela-
tionship with management since the last decade of the 1800s,237 baseball
owners “were at best paternalistic autocrats who treated their employees
as little more than children.”238

235. SEYMOUR, supra note 8, at 255. The winning Red Sox were apparently to receive a
commemorative stick pin which they still had not received, making them the only World Se-
ries winner to not receive any memento of victory. See, e.g., Red Sox Might Honor ’18
Champs, USA TODAY, Aug. 5, 1993, at 1C. It is this failure that some claim is a “curse” for
the Red Sox, who have not been able to capture the World Series since 1918. In 1993, on the
eve of the 75th anniversary of game one of the series, Red Sox officials attempted to eliminate
this curse by giving living relatives of the players a stick pin to commemorate the Series vic-
try of the 1918 team. See, Heir is Confronting the Curse of Frazee, BOSTON GLOBE, Sept. 4,
1993 at 27; Joey Reaves, AL Report, Chi. Trib., Aug. 29, 1993 at 5C.
236. See, e.g., SEYMOUR, supra note 8, at 174-77. The story of Ty Cobb’s famous hold-outs
is also contained in COBB & STUMP, supra note 160, at 75.
238. ALEXANDER, supra note 7, at 29.
X. BASEBALL AND GAMBLING

In suspending the eight Black Sox for life in 1921, despite their acquittal of criminal charges, new baseball commissioner Kennesaw Mountain Landis is reported to have said:

Regardless of the verdict of juries, no player that throws a ball game, no player that entertains proposals or promises to throw a game, no player that sits in a conference with a bunch of crooked players and gamblers where the ways and means of throwing games are discussed, and does not promptly tell his club about it, will ever again play professional baseball.239

The severity of this language gives rise to what has been called “baseball’s most sanctimonious myth”—that the scandal of the Black Sox is “baseball’s single sin.”240 Neither the history of sport in America nor the history of baseball supports this contention.

In fact, as early as the Virginia settlements of the late 1700s, gambling over cards, billiards, nine-pins, dice, backgammon and horse racing was a fixture of social life. Gambling was a reflection of “gentry culture—its competitiveness, individualism, and materialism.” It was a ritual that corresponded “to the gentry’s values and assumptions.”241

Similar “gentry” values were present in baseball, with the result that gambling was as “important to baseball as it was to horse racing.” Even baseball founder William Chadwick was not opposed to betting on baseball games.242 For the fans, the local baseball club was a source of pride. As a result, it was not unusual to have wagering on the game going on in the stands.243 Popular thinking today is that virtually all early baseball games were the subject of betting between the teams.244

By 1867, however, negative reaction to gambling began to surface. National media claimed baseball had already been sullied by widespread gambling, and the accompanying fixing of games.245 In 1869, the undefeated Cincinnati Reds team returned home and played a local Ohio

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239. This statement is published in many baseball sources, but is reprinted here from Duso, supra note 8, at 130.
240. Voigt, supra note 29, at 72-73.
242. Smith, supra note 14, at 29. However, Chadwick did think it impermissible for an umpire to bet on a game in which he was working. Id.
244. Smith, supra note 14, at 29.
team in a game with extensive betting against the Reds.\textsuperscript{246} Despite apparent evidence that an argument between the local team’s captain and the umpire was a ruse to have the game called as a tie so that a heavy gambler would not lose a bet, the league refused to award a forfeit to Cincinnati and a tie stood.\textsuperscript{247} There were no suspensions.\textsuperscript{248} At this point, baseball provided supplemental income to gamblers accustomed to playing the horses. “[O]dds [were] posted at the game and men in hard hats [walked] about selling betting slips in the stands,” as A.G. Spalding noted: “A game characterized by such scenes . . . could not possibly attract honest men or decent women to its exhibitions.”\textsuperscript{249} As a result, attendance fell to such a level that most teams were on the verge of bankruptcy. In part, this economic crisis, caused by gambling, served as an impetus for the National League as organized by William Hulbert in 1875.\textsuperscript{250}

The new National League found itself challenged during Hulbert’s first year as president when a Louisville newspaper accused members of the Louisville team of deliberately losing the 1877 pennant.\textsuperscript{251} Investiga-

\textsuperscript{246} One author suggests the team was the Lansingburg Union Club (the Haymakers). Smith, supra note 14, at 21-22. Another suggests the Haymakers were actually from Troy. Voigt, supra note 16, at 29-30. The latter view matches the historical record of a team being created in Troy in 1866 and made up of people who had never played baseball but who got a person from another town to instruct them and their manager. Becker & Grigsby, supra note 19, at 79-80. The earlier view is supported by the fact that the professional gamblers expected Troy to win the game, Voigt, supra note 16, at 30, hardly possible if the players had but three years experience in playing baseball.

These accounts also conflict on who was doing the gambling, with one account, suggesting the President of the Haymakers, a former prize fighter and notorious gambler, Smith, supra note 14, at 22, and the other indicating that New York gamblers had convinced Haymaker players to throw the game. Voigt, supra note 16, at 29-30.

\textsuperscript{247} The score was tied 17-17 after five innings when a dispute arose between the Haymaker captain and the umpire. Soon the Haymaker president became involved, eventually ordering his team to leave the field. To quiet the partisan Cincinnati crowd, the umpire declared a forfeit for the Reds. Smith, supra note 14, at 22; Voigt, supra note 16, at 29.

\textsuperscript{248} It was also reported that unsavory characters were involved as investors with teams. One report alleged that William “Boss” Tweed was an investor in a New York team in 1870. Voigt, supra note 16, at 20. Spalding claims that in 1865, a player convicted of throwing a game had been reinstated. Spalding, supra note 2, at 115-117.

\textsuperscript{249} Smith, supra note 14, at 21.

\textsuperscript{250} Spalding, supra note 2, at 116-117, 130.

\textsuperscript{251} See, e.g., Asinof, supra note 8, at 11-12; Alexander, supra note 7, at 29; Pietrusza, supra note 14, at 34-36; Smith, supra note 14, at 27-28; Voigt, supra note 16, at 71-73. Louisville had a huge lead in its pennant race with Boston with 15 games remaining. The team played so poorly in those remaining games that it lost to Boston by seven games. Pietrusza, supra note 14, at 34. It was said the gambling of the players was exposed because the team played so poorly. Smith, supra note 14, at 27-28.
tion revealed four Louisville players were involved. Through playing off individual conversations with each of the four against the others, the Louisville owner was able to obtain damning admissions. By requesting copies of all players’ telegrams, and summarily suspending the Louisville captain who refused that request, the same owner alleged the players had started losing exhibition games so that a New York gambler could profit and then had escalated their activity. While the suspension of the four for life is generally reported, the fact that two of these “dastardly” characters went on to successful careers as police officers is generally not. Nor is it generally reported that the four players had not been paid and were therefore playing for free while allegedly fixing games.

In spite of A.G. Spalding’s protestations that “instantaneous” and “inflexible discipline” of the Louisville four proved that proper league management eradicated gambling “from that day to this,” the historical record is quite the opposite. Few people took Hulbert’s expulsion of the four Louisville players seriously. “[G]amblers still operated openly in the ball parks and quoted their prices aloud . . . .” Widespread was the baseball “pool,” in which bettors bid at auction for the right to bet on a favorite team with an independent banker who held all bets, received a percentage of the profit, and paid off the winners. In one New York betting establishment, bets on one game could reach $70,000, and in Chicago, baseball pools on the early White Sox were part of the Chicago Board of Trade. In New Haven, it was estimated that some 40,000 factory workers bet a total of $10,000 in one pool, and in

252. James Alexander Devlin, a pitcher, who had won 35 games, Asinof, supra note 8, at 11; catcher/shortstop and team captain William H. Craver, who had previously been expelled for gambling from the National Association of Base Ball Players in 1870, Pietrusza, supra note 14, at 35; George Hall, a strong hitter who had a reputation for consorting with gamblers, and outfielder Al Nichols, who had some ties to New York gambling interests. Id. at 35; Voigt, supra note 16, at 71.

253. Pietrusza, supra note 14, at 36-37; Smith, supra note 14, at 27.

254. See Pietrusza, supra note 14, at 36-37; Smith, supra note 14, at 27; Spalding, supra note 2, at 141-42.

255. See Pietrusza, supra note 14, at 38, mentioning these facts. The two were Devlin, who worked as an officer in Philadelphia and Craver, who “became a highly respected policemen in Troy, N.Y.” Smith also notes that Hall had a prosperous career as an engraver and that Nichols changed his name to Williams and continued to play baseball in outlaw leagues. Smith, supra note 14, at 197.

256. See Asinof, supra note 8, at 12; Smith, supra note 14, at 197.

257. Spalding, supra note 2, at 141-42.

258. Asinof, supra note 8, at 12.

259. Smith, supra note 14, at 29.

260. Pietrusza, supra note 14, at 33, 38. Asinof wrote of one such pool:
Philadelphia, 20,000 pool tickets were sold on the World Series of 1911. Owner calls for reform were seen largely as shallow. While some owners claimed that pools took fan attendance money that would otherwise be spent at the ballpark, others thought the practice helped the game grow. Few were willing to challenge an industry that had secured protection from both politicians and the police.

Pools, however, were for small gamblers. Big gambling money was wagered by the professionals, aided by a press that regularly printed odds for games. Few events drew professional gambling money like the World Series.

From the beginning of the twentieth century until the time of the Black Sox, allegations surfaced of games being fixed: 1) during a postseason series between the Cubs and White Sox in 1903; 2) during a regular season game between St. Louis and Pittsburgh in 1904; 3) during the National League playoff between Chicago and New York in 1908; 4) during the 1907 regular season when it was alleged that some St. Louis players did not make appropriate plays thus enabling Napoleon Lajoie to beat Ty Cobb for the batting title; and 5) during the close of the 1916 season when members of the New York Giants were accused of not playing their best during the final two games of the year with Brooklyn so Brooklyn could win the pennant over Philadelphia. In addition, during the year just preceding the Black Sox scandal, there was regular gambling in Boston's Fenway Park. Finally, and perhaps most important to the state of mind of the members of the 1919 Black Sox, there were allegations that during the 1917 season members of the White Sox gave

One promotion scheme was the baseball pool, which was a kind of lottery. Tickets would be printed each week on which anyone, with ten cents or more, could bet on a team to score the most runs per inning or game, the most victories per week, and so on. A typically famous pool, known as the Keystone, distributed over 165,000 such tickets each week. It employed 50 agents who, in turn, had 300 subagents.

Asinof, supra note 8, at 12. Even in 1917, the Keystone turned a $50,000 per week profit. Id. 261. Seymour, supra note 8, at 280.

262. Id.

263. See id.

264. Id. at 281-287.

265. See Murdock, supra note 125, at 156. Harry Grabiner’s diary as discussed by Bill Veeck also mentions a possible “fix” of the 1918 World Series. Veeck reports Grabiner’s claim of giving Commissioner Landis a list of 27 names “‘mentioned in any wrongdoing’” which list included the name Eugene Packard and the notation: “‘1918 Series fixer.’” Bill Veeck, The Hustler’s Handbook 296 (1965). Packard, a pitcher with a lifetime 85-69 record in eight seasons with Cincinnati, Chicago, St. Louis, and Philadelphia in the National and Kansas City in the Federal Leagues. Notably, he pitched with the Chicago Cubs in 1917, the year before they appeared in the 1918 World Series against the Red Sox. See Neft & Cohen, supra note 7 at 82, 87, 119. There may thus be some credence to Grabiner’s claim.
members of Detroit new suits for losing four games.266

A typical example of baseball’s long-term relationship with gambling prior to the 1919 World Series is the story of Hal Chase, the first baseman who successfully defeated White Sox owner Comiskey’s attempt to enjoin his play in the Federal League.267

Nicknamed “Prince Hal,” Chase batted .291 in 1917 plate appearances from 1905 through 1919.268 Though dubbed “the most magical of all first basemen in the dead ball days,”269 Chase has also been called “the archetype of all crooked ball players.”270 It is this negative reputation that has prevented Chase’s entry into Baseball’s Hall of Fame.271

In 1908, for example, Chase was accused of not giving his best effort on the field after succeeding in getting one New York manager fired, but replaced with someone other than Chase’s choice. Chase revolted, left New York and played the balance of the season in an outlaw California league. He returned to New York the following year after paying a fine for breaking his major league contract.272 New York players, newspapers and manager George Stallings then accused Chase of throwing games.273 Chase responded by petition to New York owner Frank Farrell, known for his gambling and ties to Tammany Hall,274 who either

266. VOIGT, supra note 29, at 74. This story is confirmed in the diary of Harry Grabiner, who served as Secretary to the 1919 White Sox team. See VEECK, supra note 265, at 274; ASINOF, supra note 8, at 20.

267. Chase was described by baseball historian Harold Seymour as “a superb first baseman whose sparkling play long remained the yardstick by which others who played the position were measured,” and mentions only Hall of Famers Lou Gehrig, George Sisler and possibly Bill Terry as being in the same class at first base. SEYMOUR, supra note 8, at 288.


269. SMITH, supra note 14, at 173.

270. SEYMOUR, supra note 8, at 288.

271. SMITH, supra note 14, at 180.

272. SEYMOUR, supra note 8, at 288.

273. See id.; ALEXANDER, supra note 7, at 118. New York infielder Jimmy Austin picks up the story: Late in the 1910 season we had just finished a series in Cleveland and were on the boat going over to play Detroit. Nobody could find Hal Chase. Hal had been the Highlanders first baseman for years. Well, he'd just disappeared. The next day we found out what had happened. When we had gotten on the boat for Detroit, he had taken the train to New York. He'd gone to Mr. Farrell, the president of the club, and complained about Stallings and a lot of other things. RITTER, supra note 4, at 83 (interview of Jimmy Austin).

274. ALEXANDER, supra note 7, at 118.
fired manager Stallings or otherwise backed Chase causing Stallings to quit. Chase then took over as manager of the New York team and took what had been a second place team immediately to sixth place. When Chase was replaced as manager by former infielder Frank Chance, Chase was again accused by his manager of throwing games. Shortly thereafter, Chase was traded to Charles Comiskey’s Chicago American League team for two lesser players.

It was while a member of the Chicago American League team that Chase sought to declare his own free agency by giving Chicago ten days notice before jumping to Buffalo of the Federal League. After the court decision refusing to enforce the negative covenant in his contract with Chicago, Chase played with Buffalo of the Federal League until it disbanded and returned to the National League Cincinnati Reds in 1916. There, it was alleged, he became a virtually full-time fixer of baseball games, adept at making faulty plays around first base to guarantee the outcome of games upon which he had wagered money.

275. SEYMOUR, supra note 8, at 288.
276. RITTER, supra note 4, at 83 (Interview with Jimmy Austin). Stallings had previously been manager of the “miracle” Boston Braves who, in 1914, were in last place on July 18 and went on to win the National League pennant and the World Series. NEFT & COHEN, supra note 7, at 64, 66.
277. NEFT & COHEN, supra note 7, at 64, 66.
278. Of “Tinkers to Evers to Chance” fame.
279. SEYMOUR, supra note 8, at 289. Seymour indicates that Chance complained to two newspaper reporters that Chase had been throwing games, and then immediately thereafter traded Chase. When these statements were printed in a New York newspaper, New York president Farrell apparently denied that they had been made by his manager. Id. Another account indicates that Chase had annoyed Chance, who was deaf in one ear, by standing behind Chance and mocking him on his deaf side. When Chance found out about this, Chase was ordered “off the bench, out of uniform, and out of the park.” SMITH, supra note 14, at 174.
280. On this, both of the foregoing accounts agree. See SEYMOUR, supra note 8, at 289; SMITH, supra note 14, at 174. The players, Babe Borton and Rollie Zeider, SEYMOUR, supra note 8, at 289, had lifetime batting averages of .271 (in 317 plate appearances over four seasons) and .239 (in 937 plate appearances over nine seasons), respectively. RONALD ENCYCLOPEDIA OF BASEBALL, supra note 19, at 12-18, 12-214.
281. He batted .354 for Buffalo in 1914. See NEFT & COHEN, supra note 7, at 69. He also led the Federal League in home runs with 17 in 1915. PIETRUSZA, supra note 14, at 341.
282. The Federal League merged with the American and National Leagues under the terms of a settlement in the Federal League’s lawsuit with organized baseball. See PIETRUSZA, supra note 14, at 248-49 (giving the terms of the settlement). The actual lawsuit itself is covered earlier in this article. See supra notes 222-229 and accompanying text.
283. According to historian Harold Seymour, Chase had no chance of being allowed to return to the American League as that league would continue to blacklist him for jumping to the Federal league. SEYMOUR, supra note 8, at 289.
284. ASINOFR, supra note 8, at 14.
one report, Chase tried to bribe a Cincinnati relief pitcher to throw a
game that Chase had sought to lose, and the relief pitcher turned Chase
in to Reds' management. In another report, Chase tried to get a rival
pitcher to throw a game, was discovered by teammates who turned him
in to Reds' management, who then suspended him without pay. Chase
then sued the Reds for his salary, and the matter was eventually
referred to newly elected National League president John Heydler.
Heydler took testimony from several players, including Giant manager
and future Hall of Famer John McGraw, and received the affidavit of
Hall of Famer Christy Matthewson, the Cincinnati manager then serving
in the armed forces. Heydler found a lack of evidence and dismissed
all of the claims against Chase. Chase, again free to contract, immedi-
ately signed to play for McGraw's Giants, thus joining the team of a
principal witness against him. Shortly thereafter, the Giants hired Mat-
thewson as a coach, thus bringing the alleged offender and both principal
witnesses together.

"This [then] was the world of baseball in 1919." Contrary to any
popular myth today, the story of the 1919 Black Sox is not the first story
of gambling in baseball. All the Black Sox players knew directly or
knew indirectly of players who had been involved in tampering with
games. Indeed, it was two members of the Black Sox who revealed pay-
ment to Detroit in 1917.

Adding to the difficulties of baseball's long-term relationship with
gambling was the fact that when the United States entered World War I,
organized horse racing was banned. Forced from the race tracks, many
of those professional gamblers, already aware of the money to be made

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286. See SEYMOUR, supra note 8, at 290. It seems unlikely the two events are the same.
Asinof's incident is said to occur in 1917 and involve Reds' pitcher Jimmy Ring. Seymour's
incident took place in 1918 and involved Giants' pitcher Pol Perritt. Given Chase's history,
the more likely story is that a combination of both incidents, and perhaps others, soured Reds'
players on Chase, and that the culmination of incidents resulted in his suspension in 1918.
287. Id. at 290. Among the other witnesses were Cincinnati players Greasy Neale, Mike
Regan and Jimmy Ring, as well as Giant Pol Perritt.
288. Id. Heydler did, however, congratulate the Reds for bringing the charges and further
indicate that anyone actually found to be betting on baseball would be dismissed from the
league. Chase dropped his action to recover his salary, although Seymour suggests he was
probably compensated by the Giants for any loss.
289. The conclusion of Chase's story is given later in this article. See infra note 436.
290. ASINOF, supra note 8, at 20.
291. See VEECK, supra note 265, at 297. Risberg and Gandil told of an assessment against
virtually all of the White Sox of $50 each to pay for the suits given the Detroit players. Id.
in baseball, simply switched their allegiance.\textsuperscript{292} It was some of those gamblers who participated in dealings with the White Sox players before the 1919 World Series.

XI. Facts Surrounding the Fix

In 1906, Charles Comiskey's Chicago White Sox won the American League pennant. Thereafter, the team's fortunes went downhill to the point where, in 1912 and 1913, the team finished fourth and then fifth. In 1914, the White Sox finished sixth in the eight team league.

In Philadelphia, however, the story was just the opposite. From 1910 through 1914, the Philadelphia Athletics failed to win the American League pennant only in 1912.\textsuperscript{293} Hall of Famers Eddie Collins and Frank "Home Run" Baker covered second and third and were flanked by Jack Barry and Stuffy McInnis to make up what was known as the "$100,000 infield."\textsuperscript{294}

As World Series winners in three years out of four, the Athletics were a prime target for raiding by the Federal League.\textsuperscript{295} Pitchers Plank and Bender and infielder Collins all received "tempting . . . propositions" from the Federal League.\textsuperscript{296} Following the 1914 season, unable and unwilling to match Federal League offers, and after losing both Plank and Bender,\textsuperscript{297} Connie Mack decided to sell his team.\textsuperscript{298}

\textsuperscript{292} Asino, \textit{supra} note 8, at 12-13. For an excellent account of the internal workings of organized baseball during World War I. \textit{See} Murodorci, \textit{supra} note 125, at 118-131; Seymour, \textit{supra} note 8, at 245-255.

\textsuperscript{293} Neft & Cohen, \textit{supra} note 7, at 48-65. Connie Mack's Athletics "were one of the greatest baseball teams ever assembled." Ritter, \textit{supra} note 4, at 199 (interview with Rube Bressler). Bressler pitched on the 1913-14 Athletics teams and later for Cincinnati. Following an injury in 1920, he became an outfielder, eventually finishing his career in Brooklyn in 1932. \textit{Id.} at 198-99, 202-203, 206. The pitching staff included Hall of Famers Eddie Plank, Chief Bender and Herb Pennock. \textit{Id.} at 198. Plank was elected to the Hall of Fame in 1946, Bender in 1953, and Pennock in 1948. Neft & Cohen, \textit{supra} note 7, at 628.

\textsuperscript{294} \textit{See} Seymour, \textit{supra} note 8, at 162. Collins was elected to the Hall of Fame in 1939 and Baker in 1955. Neft & Cohen, \textit{supra} note 7, at 628. Unfortunately for the players, the \"$100,000\" did not refer to their aggregate salary, or even what owner Mack paid for them, but instead to their estimated market value. \textit{See} Seymour, \textit{supra} note 8, at 162.

\textsuperscript{295} Owner Connie Mack claimed that the distraction of negotiations with the Federal League by some of the Philadelphia players caused his team to be shutout 4-0 by Boston in the 1914 World Series. Seymour, \textit{supra} note 8, at 219-220.

\textsuperscript{296} \textit{Id.} at 219.

\textsuperscript{297} Plank played for the St. Louis Federal League team in 1915, Bender the Baltimore Federal League team. Neft & Cohen, \textit{supra} note 7, at 110, 118.

\textsuperscript{298} Seymour, \textit{supra} note 8, at 219; \textit{see also} Murdock, \textit{supra} note 125, at 79 (indicating the Athletics were also losing money and suggesting that such economic problems contributed to the decision to disband the team). The result, however, was that by the end of 1915, players
Also following the 1914 season, the Federal League Chicago Whales\textsuperscript{299} signed Washington pitching ace Walter Johnson.\textsuperscript{300} With the prospect of one of the game’s most popular heroes\textsuperscript{301} playing for the Federal League in Chicago, American League President Johnson convinced Mack to sell Collins to the White Sox.\textsuperscript{302} Owner Charles Comiskey purchased Collins, paying Mack $50,000 and Collins a $15,000 bonus.

Eddie Collins, Jack Barry, “Home Run” Baker, and the third Hall of Fame pitcher Pennock were no longer with the team. Pietrusza, \textit{supra} note 14, at 233-34.

299. Some post-1950 professional team mobility produced incongruous team names such as the “Jazz” of Utah and the “Lakers” of Los Angeles. A new team, starting in Chicago, called the “Whales” does, however, strain the imagination. The principal owner of the team was Charles Weeghman, who owned a chain of cafeteria restaurants. Pietrusza, \textit{supra} note 14, at 217; see Seymour, \textit{supra} note 8, at 200-201. There thus appears no connection between owner and team name. Weeghman was able to attract William Walker as a financial backer for the team and Walker owned the largest wholesale fish market in the midwest, thus providing some possible relevant link to the team name. See Pietrusza, \textit{supra} note 14, at 217. Historian Seymour, however, advises that this “catchy nickname” was the result of a fan contest held by Weeghman. Seymour, \textit{supra} note 8, at 216. One can only wonder as to the quantity and more particularly the quality of the losing entries.

300. Known as “The Big Train,” see Neft & Cohen, \textit{supra} note 7, at 115, it was said that Johnson’s fastball was so fast that you could not see it. “But you hear it. Swoosh, and it smacks the catcher’s mitt.” Ritter, \textit{supra} note 4, at 57 (interview with Sam Crawford). Johnson’s record of 414 career wins stands second only to Cy Young. Neft & Cohen, \textit{supra} note 7, at 654. His 3509 strikeouts was the all time major league record until surpassed by Nolan Ryan. See id. at 656. Even more remarkable, however, is that Johnson’s pitching career was spent with the largely second-division Washington Senators. In 1909, Johnson won 13 of the 42 games won by Washington for the season, in 1910, 25 of 66 and in 1911, 25 of 64. See id. at 45, 49, 53. The team finished in 8th, 7th, and 7th place in the eight team league during those years. \textit{Encyclopedia of Major League Baseball Team Histories: American League} 328-29 (Peter C. Bjarkman, ed. 1991). From 1913-1916, Johnson led the American League in wins each year with 36, 28, 27, and 25 on a team that finished 6, 19, 17 and 14 games out of first place. \textit{Id.} He became a charter member of the Hall of Fame in 1937. Neft & Cohen, \textit{supra} note 7, at 628.

Johnson reported the fact that he was approached by the Federal League to his Washington team. Nonetheless, after the 1914 season, Johnson was offered $16,000 for either a one or two year deal with Washington and requested $20,000. On his way home to Kansas, Johnson was offered his price in a three year deal with St. Louis of the Federal League. Loyal to Washington, Johnson wrote the club twice but received no reply. Ultimately, he received a letter from the Washington president lowering the club’s offer to $12,500 with a threat to invoke the automatic extension under the reserve clause. Thereafter, Johnson signed with the Whales for $17,500 per year with a $6,000 bonus. Pietrusza, \textit{supra} note 14, at 234.

Ultimately, however, Johnson did not play in the Federal League as Washington management convinced the star that he should return, reportedly for the lowered $12,500 figure. See \textit{id.}; Seymour, \textit{supra} note 8, at 207. Ty Cobb claims the reversal was due to Washington threatening Johnson with suit under the contract. See supra note 160 and accompanying text. See also Pietrusza, \textit{supra} note 14, at 234.

301. See Voigt, \textit{supra} note 29, at 155-56.

302. Murdock, \textit{supra} note 125, at 79-80. The Yankees were also quite interested in acquiring Collins. \textit{Id.}
to sign a five year contract at $15,000 per year.\textsuperscript{303}

In Cleveland, the signing by the Federal League of pitcher Cy Falkenberg\textsuperscript{304} together with the virtual collapse of the Cleveland offense,\textsuperscript{305} caused attendance to fall and resulted in substantial financial difficulties.\textsuperscript{306} To help relieve them, the club sold Joe Jackson to Comiskey for $31,500 plus options on three other players.\textsuperscript{307} When the original cost of these three other players to Comiskey was added to the amount paid for Jackson, the total exceeded the cost of Collins by $500, with both deals setting new transactional records.\textsuperscript{308}

\textsuperscript{303} Axelsson, supra note 70, at 201-202, who also reports that Comiskey was tired of spending money on minor league players who did not work out. Murdock, supra note 125, at 80, reports that the yearly contract was $12,000 per year and Seymour, supra note 8, at 220, reports the purchase price as being between $20,000 and $50,000. Axelsson's figure is probably more likely in light of the discovery of White Sox secretary Harry Grabner's diary by Bill Veeck. Grabner reports Collins' 1918 salary at $15,000, consistent with the Axelsson figure. See Veeck, supra note 265, at 256. Another author reports the total value of the transaction at $140,000, a figure that encompasses the purchase price of $50,000 plus a bonus to Collins of $15,000 and a five year contract at $15,000 per year. Compare Voigt, supra note 29, at 66.

Collins was considered the most expendable of Mack's players after writing newspaper articles in 1914 that embarrassed other players on the Athletics. Murdock, supra note 125, at 79.

Falkenberg compiled a won-loss record of 128-126 playing for Pittsburgh in the National League and Washington, Cleveland and Philadelphia in the American League and Indianapolis, Newark and Brooklyn in the Federal League. Neft & Cohen, supra note 7, at 113. He was the leading pitcher on the 1914 Federal League champion Indianapolis team with a 25-16 mark. Id. at 68. In 1913, he had been Cleveland's leading pitcher with a 23-10 record. Id. at 60.

In 1913, Cleveland finished in third place in the American League, 9\frac{1}{2} games behind the leader, compiling a team batting average of .348, second highest in the league. Neft & Cohen, supra note 7, at 60. Napoleon Lajoie batted .404. In contrast, in 1914, the team batted .312, sixth in the league and finished in eighth place, 48 1/2 games out of first. Id. at 65.

Attendance dropped from over 500,000 in 1913 to less than 200,000 the following year. See Murdock, supra note 125, at 76, indicating Cleveland owner Charles Somers was in debt $2 million on the club by 1915. As a result, the "club was in the hands of the bankers." Axelsson, supra note 70, at 202.

Axelson, supra note 70, at 202-203. Murdock indicates the transaction as one for $30,000 plus two players. Murdock, supra note 125, at 80. Encyclopedia of Major League Baseball Team Histories, supra note 300, at 111, supports Axelson's view that the trade sent outfielders Braggo Roth and Larry Chappell and pitcher Ed Klepfer to Cleveland.

In writing of the trade, Comiskey's biographer remarkably refers to the today legendary "Shoeless Joe" as "sockless Joe." Axelsson, supra note 70, at 202.

Axelson, supra note 70, at 203, indicates that Comiskey had paid $11,000 for the rights to Roth, $5,000 for the rights to Chappell, and $11,000 for the rights to Klepfer making the total cost of the Jackson trade to Comiskey $65,500, slightly more than the $65,000 total cost of the purchase price plus bonus to Collins. Shortly thereafter, Comiskey went back to purchasing minor league talent, buying Oscar Felsch, nicknamed "Happy" because of his disposition, from Milwaukee of the American Association for $12,000. Id.

The infield that enabled the White Sox to win the American League crown in both 1917 and 1919, however, was still not complete until Californians Charles "Swede" Risberg joined
While the amounts spent to bring the two players to the White Sox were similar, the two players “could hardly have been more unalike.”

Collins, a northeasterner, was Columbia University educated, combative and so self-assured that his nickname was “Cocky.” Jackson, on the other hand, a southerner, was shy and uneducated. Because of “taunts of teammates from the North and East,” Jackson had been unable to successfully compete on Connie Mack’s Philadelphia Athletics where he and Collins had briefly been teammates in 1909. It is thus no surprise that Collins received $15,000 for himself out of the deal that sent him to Chicago, while Jackson received nothing. It was, however, these brilliant baseball players who formed the nuclei of the two cliques of the 1916-1920 Chicago White Sox, a baseball team “ridden with dissension.”

One clique was led by team captain Collins, who was joined by catcher Ray Schalk and pitchers Urban “Red” Faber and Dickie Kerr. The other’s leader was first baseman Chick Gandil, joined by shortstop “Swede” Risberg, third baseman George “Buck” Weaver, outfielder Jackson and pitchers Ed Cicotte and Claude “Lefty” Williams. The latter group may have acknowledged Collins’ ability as a leader, but “resented his polish, his authority, and his high salary.” In fact, neither

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the team as a rookie shortstop in 1917 and Charles “Chick” Gandil returned to the White Sox after playing in Cleveland and Washington. See Neft & Cohen, supra note 7, at 97, 105; Asinof, supra note 8, at 18 (“Gandil and Risberg, both from the wilds of California . . .”).

310. Id. at 109-110.
311. Encyclopedia of Major League Baseball Team Histories, supra note 300, at 110. Jackson’s “carefree” nature, particularly when it resulted in Jackson failing to appear at the ballpark also annoyed Mack. Smith, supra note 14, at 200.
312. Neft & Cohen, supra note 7, at 44.
313. This is also consistent with the view of later baseball executive Bill Veeck, who called Jackson “the world’s worst negotiator.” Veeck, supra note 265, at 256.
314. Asinof, supra note 8, at 18.
315. Id.
316. Voigt, supra note 29, at 66. This group was characterized by Gandil and Risberg’s “undisciplined toughness.” Asinof, supra note 8, at 18. Asinof also indicates the differences in the groups were caused in part by “sectional prejudices,” id., although a review of the birthplaces of the group does not so indicate:

<table>
<thead>
<tr>
<th>Gandil Group (Birthplace)</th>
<th>Collins Group (Birthplace)</th>
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<tbody>
<tr>
<td>Chick Gandil (Minnesota)</td>
<td>Eddie Collins (New York)</td>
</tr>
<tr>
<td>Joe Jackson (South Carolina)</td>
<td>Ray Schalk (Illinois)</td>
</tr>
<tr>
<td>Eddie Cicotte (Michigan)</td>
<td>“Red” Faber (Iowa)</td>
</tr>
<tr>
<td>“Buck” Weaver (Pennsylvania)</td>
<td>“Lefty” Williams (Missouri)</td>
</tr>
<tr>
<td>“Swede” Risberg (California)</td>
<td>“Happy” Felsch (Wisconsin)</td>
</tr>
</tbody>
</table>
Risberg at shortstop, nor Gandil at first base even talked to second baseman Collins, thereby making it difficult for Collins to touch the ball.  

What really united the Gandil group, however, was their "dislike for Comiskey," a dislike bred by the latter's frugality. The rumor about the Sox owner was that he spent freely on his friends but was close-fisted with his players. Comiskey was first and foremost a businessman about the game. He would not buy a player unless anticipated income would pay the player's salary. He did not tolerate players whose tastes became more expensive as they became stars or players who would not play when injured.

Because Comiskey had started out traveling on day coaches, he thought his players should be more than satisfied with an "upper" berth on a team train. The following conditions and events happened under his financial policies. The team often wore "filthy uniforms" to keep cleaning bills low. White Sox players generally received a $3 per day meal allowance, lower than the $4 per day players on some second division teams received. In 1917, Comiskey promised the players a bonus if they won the American League pennant, which the team did, as well as the World Series. Comiskey's "bonus" was a case of champagne sent to the club's victory party. The Series itself had gate receipts of $425,000 with Comiskey's share approximately $100,000. Also in 1917, Comiskey promised pitcher Ed Cicotte a bonus of $10,000, an amount that probably equaled twice his regular salary, if he won thirty games. When Cicotte, who had never before won twenty games,

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317. Neft & Cohen, supra note 7, at 94, 97, 99, 105-106, 108, 111, 253, 256; see also Gandil & Durslag, supra note 9, at 62, 64 (acknowledging the "personal feuds" on the club).

318. Axelsson, supra note 70, at 302. The author indicates the fact that Comiskey lost no players to the Federal League disproves this rumor. Id. However, the author also points out that the leaders of the Federal League gave special treatment to Comiskey because of his role in breaking the original National League monopoly. Id. at 208.

319. Id. at 302-303.

320. As to the former, when a player threatened to quit if he did not get paid $10,000, Comiskey is reported to have said: "'When I was playing ball I was always afraid the game was going to quit me.'" As to the latter, Comiskey said: "'When I was in the game I didn't dare stay out for fear that somebody would get my job.'" Id. at 303, 305.

321. Id. at 303-304.

322. Gandil & Durslag, supra note 9, at 64.

323. Asinof, supra note 8, at 21.

324. Id. at 22.

325. Axelsson, supra note 70, at 214.

326. See Seymour, supra note 8, at 334 (indicating that Cicotte made $5000 in 1919). If this amount is correct, then with the bonus, Cicotte would have made as much as Collins ($15,000).
had won twenty-eight games before the regular season ended, Comiskey apparently ordered that he not be allowed to pitch.  

Despite being one of the best baseball teams ever to play the game, players were underpaid. Buck Weaver, the only third baseman against whom Ty Cobb refused to bunt, made between $6000 and $7250. Joe Jackson, then in his tenth year, had batted .322 in playing for both Cleveland and Chicago in 1915, .341 in 1916 and .301 in 1917. In 1918, he was injured. He had signed a contract to play for $6000 for both 1918 and 1919. By contrast, his counterpart in the 1919 World Series, Cincinnati Hall of Fame outfielder Edd Roush had batted .298 in the Federal League in 1915, .270 for both New York and Cincinnati in 1916, and .341 in 1917. Roush, however, made almost twice as much as Jackson. Similarly, pitcher Cicotte's $5000 salary was about one-half that of his rival World Series opening pitcher, Dutch Reuther of Cincinnati. Reuther, however, was twenty six (26) years old and had been a major

327. Cicotte first broke into baseball in 1905 with Detroit and had a 1-1 record. Neft & Cohen, supra note 7, at 28. From 1908-1912, he pitched for Boston, winning 11, 13, 15, 11 and 1 game, respectively. Id. at 41, 44, 49, 53, 56. He also won 9 games for Chicago in 1912 and then 18, 11, 13, and 16, respectively. Id. at 57, 61, 65, 72, 76.

328. Asinof, supra note 8, at 21. Cicotte was 1-1 in the World Series and thus finished the season with 29 wins. There is some evidence that Comiskey did pay Cicotte $2000 of this bonus, but this information is not reprinted in any other source. See Seymour, supra note 8, at 334. Probably more likely is the evidence found in team secretary Harry Grabiner's diary by Bill Veeck. There, Cicotte's contract for 1918 was listed at $5,000 with a $2,000 bonus. Veeck, supra note 265, at 256. Having won 28 regular season and 1 post season games in 1917, it seems likely this $2,000 was actually a raise that was deliberately stated as a "bonus" so as to lower the base from which to negotiate Cicotte's 1919 salary. See id. In fact, Cicotte only won 12 games in 1918 while losing 19, Neft & Cohen, supra note 7, at 85. His salary for 1919 is generally reported at around $6,000, Gandil & Durslag, supra note 9, at 64. It seems highly unlikely that he would have received a raise based on the 1918 season and, therefore, more likely that his actual 1918 salary was $7,000 reduced by $1,000 for the following year. If true, then no bonus was actually paid.

329. Durant, supra note 16, at 106 (also quoting Eddie Collins: "'I hate to say it ... but they were the best and don't forget I played on Connie Mack's great championship teams in 1910 and 1911. The Sox were best.'").

330. Compare Veeck, supra note 265, at 256 ($6,000 was Weaver's 1918 salary) with Seymour, supra note 8, at 334. Cobb, who leads the major leagues in all-time batting average with a .366 mark, Neft & Cohen, supra note 7, at 651, believed that the bunt was an effective offensive weapon. See Cobb & Stump, supra note 160, at 152-55.

331. Neft & Cohen, supra note 7, at 72,73, 76, 80.

332. Veeck, supra note 265, at 256.

333. Seymour, supra note 8, at 334.

334. Neft & Cohen, supra note 7, at 71,78-79, 82. He was elected to the Hall of Fame in 1962. Id. at 628.

335. Seymour, supra note 8, at 334.
First baseman Gandil was making only about $4000.337 Outfielder Happy Felsch, who hit over .300 in both 1916 and 1917 but missed 1918 because of World War I made $3750.338 Pitcher Lefty Williams, a seventeen game winner in 1917, made $3000. Shortstop Swede Risberg made $2500. Infielder Frank McMullin made $2750.339

The result of this financial treatment of the players by owner Comiskey was succinctly stated by American League president Ban Johnson’s biographer:

[The players'] thinking was that they had the best team in baseball, but Comiskey was paying them only a fraction of their true worth. By throwing the series, they could make money for themselves, and humiliate their fiscal tormentor.340

Proof that their actions were, at least in part labor actions, comes from what the players appear to have wanted out of any “fix.” Pitcher Eddie Cicotte is said to have agreed to throw the World Series if he received $10,000 cash, before the first game, an amount that was apparently left under his pillow on the eve of the series.341 Joe Jackson was promised $20,000, but received only $5000. In confessing his involvement, Jackson nonetheless complained “I never got that $15,000 that was coming to me.”342

The desire for money played a part in what was done, but the reason for that desire must also be considered.343 Cicotte, for example, testified that he sold out to pay a mortgage on property he had purchased.344 That mortgage, however, was only $4000.345 It can be neither coinci-


dence nor historical symmetry that Cicotte was willing to participate only upon receiving the exact amount of the bonus Comiskey failed to pay him at the end of the 1917 season.

Additionally, while Joe Jackson had become something of a big spender since coming to the major leagues, $20,000 would buy a lot of new clothes in 1919. And while he was the brunt of jokes about being ignorant, Jackson was a dedicated ballplayer who must have possessed some street savvy. Would he then publicly complain about not receiving $15,000 of the money he had been promised for fixing the World Series out of pure greed or lack of intellect? Or could the fact that the $5000 he received still did not bring him to the salary level of his World Series counterpart Roush, or that $15,000 was the exact amount of the bonus Eddie Collins had received for signing with the White Sox have had something to do with it?

The fact that the players may have chosen to “throw” games must also be viewed suspiciously. Again, can it be considered either happenstance or historical symmetry that the players choose this method of labor upheaval? It must be recalled that these same players paid Detroit players to throw games in 1917. The result of those tainted games led to the White Sox American League pennant, which the Sox players then parlayed into a World Series championship. Their allegedly promised “bonus” from Comiskey turned out to be a case of champagne. For the players to throw games in 1919, thus losing a World Series, could be viewed as a just reward for Comiskey's 1917 conduct.

The post-World Series actions of owner Comiskey confirm both that the players' message was received and that the actions were understood as those of labor activists. While Comiskey's public reaction to the potential for a tainted World Series involving his players was to offer a $20,000 reward to anyone who could provide evidence of a fix, it is today reasonably clear that Comiskey was given substantial evidence concerning the actions of his ballplayers immediately after the Series, but did nothing about it. More important, however, were the actions

346. See id. at 57. "He became a slick dresser, very conscious of his clothes. He liked the feel of shiny new shoes and bought more than he needed." He also tried several business ventures, all of which failed. Id.

347. Id. at 20, 284.

348. Id. at 22.

349. SEYMOUR, supra note 8, at 295.

350. See VEECK, supra note 265, at 260-64. In late September, 1920, the press first printed the existence of a potential "mystery" woman grand jury witness. Later, Mrs. Henrietta Kelly told the grand jury that as Cicotte's landlady, she overheard him tell his brother that he was no longer worried about money because "I got mine." ASINOF, supra note 8, at 202-203,
Comiskey took to sign these same players to contracts for the 1920 season. With the exception of Gandil, who claimed his request for a $2000 raise was turned down and who therefore did not report, the seven other players not only signed for 1920, but each of them received at least a twenty percent salary increase!

<table>
<thead>
<tr>
<th>Player</th>
<th>1919 Salary</th>
<th>1920 Salary</th>
<th>% Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buck Weaver</td>
<td>$6000</td>
<td>$7250 (2 yrs.+)</td>
<td>21%</td>
</tr>
<tr>
<td>Joe Jackson</td>
<td>$6000</td>
<td>$8000 (3 yrs.)</td>
<td>33%</td>
</tr>
<tr>
<td>Eddie Cicotte</td>
<td>$5000</td>
<td>$10000</td>
<td>100%</td>
</tr>
<tr>
<td>Lefty Williams</td>
<td>$3000</td>
<td>$6000+</td>
<td>100%</td>
</tr>
<tr>
<td>Happy Felsch</td>
<td>$3750</td>
<td>$7000</td>
<td>87%</td>
</tr>
<tr>
<td>Swede Risberg</td>
<td>$2500</td>
<td>$3200</td>
<td>30%</td>
</tr>
<tr>
<td>Frank McMullin</td>
<td>$2750</td>
<td>$3600</td>
<td>31%</td>
</tr>
</tbody>
</table>

In addition, the clause allowing the team to waive Buck Weaver on ten days notice was removed from his contract. Further, Williams' contract enabled him to receive a $500 bonus if he won fifteen games and $1000 if he won twenty games in 1920. When questioned about this conduct, both Comiskey and team secretary Harry Grabiner indicated they signed those who they knew had been accused of selling tickets.

206; SEYMOUR, supra note 8, at 303. In fact, Grabiner knew about Mrs. Kelly and what she overheard shortly after the 1919 World Series was over. VEECK, supra note 265, at 260. In addition, at least two reasonably reliable sources had provided Comiskey with information early in his investigation. First, St. Louis gambler Harry Redmon had lost money on the series and was apparently angry that his losses were the result of a fix. He spoke with Comiskey agents in October, 1919, and gave them the names of some of those involved, including St. Louis second baseman Joe Gedeon, a friend of Swede Risberg. This discussion took place even before Comiskey offered a reward for information. Gedeon then talked to Comiskey immediately after the $20,000 reward was offered. Comiskey claimed that the information was inconclusive. Id. at 261-62. His attorney called it "sparse" and "useless." ASINOF, supra note 9, at 130. Yet both Redmon and Gedeon later served as witnesses. See SEYMOUR, supra note 8, at 307. Most likely, Comiskey simply refused to put the pieces of the jigsaw puzzle together, see ASINOF, supra note 8, at 130, or bought off those who told him information for less than the reward money. See VEECK, supra note 265, at 262.

351. The actual fix was not uncovered until the 1920 season was almost over. On September 7, 1920, a special grand jury in Chicago met to consider the possible fix of a National League regular game on August 31, 1920, between Philadelphia and the Chicago Cubs. As a result of newspaper accounts reviving the potential fix of the 1919 World Series, see infra notes 588-593 and accompanying text, the focus of the grand jury shifted from the single game to the prior year's series.

352. Gandil & Durslag, supra note 9, at 68.
353. VEECK, supra note 265, at 266. This material is also reported in SEYMOUR, supra note 8, at 335. Joe Jackson also claimed that the 10-day clause was removed from his contract, although that did not turn out to be the case. See ASINOF, supra note 8, at 140-41. Secretary Grabiner went to Jackson's home to deliver the contract and convinced Jackson to sign the contract before Jackson's wife had read it. Grabiner apparently assured Jackson that the 10-day clause had been removed when it had not. Id.
out their ball club merely as a "necessary formality" to protect the ball club, though both acknowledged this conduct to be "'unusual.'"354 Given the fact that none of these players could sign with any other team unless released by Comiskey; given the fact that none had ever before been in a position to question the contract offered to them by Comiskey; and given the fact that these raises ranged from twenty-one percent for Weaver to one hundred percent for the two pitchers who between them started all of the games Chicago lost,355 "'unusual'" may not quite be the correct adjective. And the story does not end there. Even after the Cicotte/Williams combination had lost all five of the allegedly tainted games, Comiskey rewarded Cicotte with a bonus of $3000 and Williams with a bonus of $875.356 These acts are far more than "unusual." What had more logically occurred was that the players had caused a complete reversal in their relationship with Comiskey. Comiskey was coerced into "actually giving them the raises they [had] always deserved."357 These players had tacitly learned a lesson taught by labor leader Samuel Gompers. Whether or not they actually participated in throwing the World Series, they had created the perception of fix and had thus realized the benefit of a labor fundamental truth: "Whoever or whatever controls economic power directs and shapes development for the group or nation."358 Following the World Series, the players controlled the economics of the game; Comiskey knew it and took steps to reward it.

XII. THE ROLE OF THE PRESS

Sportswriters have done more than just write about baseball. Perhaps more than in many other sports, baseball journalists are among both the architects of the game and the instruments in its growth and success. English-born Henry Chadwick, called by Spalding "The Father

354. SeymouR, supra note 8, at 336. The two were congratulated for their "'straightforwardness'" by The Sporting News. See id.

355. As told by Eliot Asinof: "Chick Gandil had been thinking about the coming World Series for a long time . . . . How may ball players were necessary to insure the fix? . . . And more significant than the number — who? First, pitchers. Impossible to fix the Series without them. He had to start lining up pitchers." ASINOu, supra note 8, at 15. Cicotte and Williams started six of the eight 1919 World Series games, with only Cicotte's victory in game 7 being a winning effort. NeFT & COHEN, supra note 7, at 91.

356. See SeymouR, supra note 8, at 335. Happy Felsch also received a bonus of $3,000. Id.

357. VEECk, supra note 265, at 265.

358. GOMPERS, supra note 90, at 94.
of Baseball,” began reporting the early amateur games in New York as early as 1848. He invented the box score and, as chair of the rules committee, officially declared that a baseball game could not end in a tie. He was the author of the first books about baseball, and became a regular contributor to Spalding’s annual guides. He was so important to the game that he was elected to Baseball’s Hall of Fame in 1938.

Even before the founding of the National League, the press played a part in shaping public perception of baseball players. The press admired the rugged individualism of early professional players. The same press, however, also misunderstood it. The media equated toughness on the field with unbridled loyalty to the contracts signed with the club. It was assumed “that ballplayers should bind themselves this way to their employers, as if the tie were one of blood and birth rather than money.” This, of course, missed the point of the then National Association of Professional Base Ball Players, a league in which players were free to shop themselves, and their talent, to the highest bidder. As a result, when players like Spalding and his Boston teammates began to change clubs to secure more lucrative employment, they were labeled “revolvers,” and “shooting stars” by the media and “goddam seceders” by the public.

Despite the fact that organizers of the National League sought to change baseball into a business, writers like Chadwick continued to view baseball players as something other than laborers. He opposed player salaries that exceeded $1000 indicating that “[c]atchers and pitchers deserve more than players at other positions but $1000 is good pay even for

359. See Spalding, supra note 2, at 218.
362. Spalding, supra note 2, at 91. This took place at a Championship game in 1870 between Cincinnati and the Brooklyn Atlantics. Id. at 89-90.
365. Along with Morgan B. Bulkeley, the first president of the National League, Ban Johnson, the first president of American League, who were elected in 1937, and Alexander Cartwright, who organized one of baseball’s first teams, Chadwick was elected to the Hall as a non-player. Neft & Cohen, supra note 7, at 628.
366. Smith, supra note 14, at 25. This is reminiscent of the pre-industrial revolution personal relationship between employer and employee. Compare Forkosch, supra note 46, at 65-66.
them, and a hundred dollars a month... is sufficient for the other positions."

Criticism by writers such as Chadwick, however, neither slowed the growth of professional baseball nor sportswriting about it. Indeed, most successful teams were located in population centers that provided good newspaper coverage. That coverage grew with the game until, by the 1880s newspapers began developing specialized departments to cover nothing but sports. Because baseball was a linear game with a finite beginning point in the spring and a finite ending point in the fall, it lent itself to the equally linear quality of the daily newspaper. The newspapers helped by breaking the season down into multiple phases. The result was that the message of the sports pages became the gospel by which fans learned the game. Local papers developed the "star" system and it was newspaper writers who made heroes or fools of players, managers, and umpires depending on their performance.

One of the favorite topics of early baseball journalists was gambling, and about how it might ruin the game. Chadwick, for example, wrote about gambling on baseball games as early as 1858, at the time of the founding of the National Association of Base Ball Players. Thereafter, the press continued to write about the evils of gambling and the fear that baseball would fall into disrepute like boxing or horse racing. It

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368. Id. at 28. One hundred dollars per month would exist only during the 6-month season. He also complained, for example, that uniform admission prices instituted by the new league, and necessary as revenue measures, were too high, urging it to return to the prior generally accepted $.25. See id.

Some would argue that this type of journalism still exists. Writing about the early days of the current Players' Association, former executive director Marvin Miller stated:

The press generally followed the owners' lead. The public heard that the players had the most generous pension plan in America and they were greedily grasping for more, even though what we were seeking was stable pension benefits. We endured editorials like 'The fan goes from steak to hamburger while the ballplayer rides a golden gravy train'—as if we were taking steaks out of the fans' mouths! And they echoed management's line that the athletes were well paid for 'playing a game.'

MILLER, supra note 7, at 206.

369. VoIGT, supra note 29, at 185-87.

370. Id. at 188-89. According to the author, there was a spring training buildup; a beginning and middle of the season phase; a pennant drive phase; a World Series phase; and a "hot stove" phase when all of the phases of the preceding year could be reviewed in anticipation of the following season. Id. at 188.

371. See id. at 189-191.

372. SPALDING, supra note 2, at 50-52. Spalding reports Chadwick wrote a story about how a batter won part of a $100 bet by hitting a home run in an 1858 championship game.

373. See, e.g., VoIGT, supra note 16, at 82 (quoting a Buffalo writer's opinion that for one fearful of a fixed result, a horse race was a safer bet than a professional baseball game). See also SMITH, supra note 14, at 29.
was, in fact, the newspapers that broke baseball’s first gambling scandal, making “folk villains” of players on the Louisville club in 1877.374

The potential for fixing the 1919 World Series was thus a natural topic for some baseball writers. Even prior to the series, investigative reporters like Hugh Fullerton and James Crusinberry began gathering facts that would allow them later to question the series play of the White Sox.

Fullerton, described as “one of the most widely read sportswriters of the day,”375 was not just a baseball writer, but also a dedicated baseball tactician, sometimes writing about intricacies of the game.376 His specialty was the “inside exposé.”377 Prior to the 1919 World Series, for example, Fullerton had written a series of articles comparing the White Sox and the Cincinnati Reds position by position and had decided he could stake his personal reputation on the White Sox being a better team

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374. Voigt, supra note 29, at 190. The questionable games between Hartford, one of the worst teams in the league, and Louisville, one of the best, “had been scandalously ragged.” Smith, supra note 14, at 196. “‘!! — ?? — !!,’” and “‘What’s the Matter?’” were the reported headlines in the Louisville newspaper. Pietrusza, supra note 14, at 36; Voigt, supra note 16, at 72. When Pitcher James Alexander Devlin regained his early season pitching effectiveness in post season exhibition games, the paper went public with rumors of a fix and those rumors lead to the team investigation and ultimate banishment by National League president William Hulbert. Pietrusza, supra note 14, at 36-37; Voigt, supra note 16, at 72.

Interestingly, however, and not generally reported, the newspaper reporter who broke the story was the son of the Louisville team owner. Even more interesting is that even before the season, pitcher Devlin was at odds with the Louisville club over an unknown matter. The newspaper sided with the club against Devlin so that at the beginning of the season, there was already a rift between the club and Devlin. Voigt, supra note 16, at 71. Part of the dispute was apparently demands made by Devlin in light of a new “get-tough policy” employed by the National League against its players generally. See id. at 70-71; see also supra notes 251-256 and accompanying text.

375. Smith, supra note 14, at 194.

376. A.G. Spalding, for example, presents a portion of a 1911 article in which Fullerton compares the likelihood of success of the hit and run, the sacrifice and the stolen base. Included in this discussion is the following display of Fullerton’s knowledge and research:

In the average seasons of the two major leagues—the American and National—89,156 face the pitchers. Of these 27,058 reach first base—19,154 of them on safe hits, 1,303 on errors that permit them to achieve the first ninety feet—645 by being hit by pitched balls, and 5,950 on bases on balls. These figures are the averages of the two leagues for five seasons. Of the 27,058 who reach first base, 17,138 arrive at second, 12,822 at third, and 8,272 score.

Yet the average number of stolen bases in the 1,232 games of the five seasons of the major leagues is only 2,744. That is, out of 55,988 opportunities to steal bases, only 2,744 are improved.

Spalding, supra note 2, at 306.

377. Voigt, supra note 29, at 190.
that would win the Series handily.\textsuperscript{378} When, even before the series, Fullerton was alerted to possible manipulation of the results, he consulted with his Series roommate, Hall of Fame pitcher Christy Matthewson.\textsuperscript{379} Matthewson, covering the series for a New York newspaper, and Fullerton agreed to watch the series for evidence of a fix and to confer on all plays that looked questionable.\textsuperscript{380} Eventually, in the eight game series, the pair settled on seven plays that looked "highly suspect."\textsuperscript{381} Following the series, and after at least one source indicated he had conferred with Comiskey, Fullerton wrote that the world championship had been fixed.\textsuperscript{382} While it has also been reported that Fullerton merely put into print what many thought, the reception his allegations received belies such easy analysis.\textsuperscript{383} Comiskey publicly indicated Fullerton's "'yams are manufactured out of whole cloth and grow out of bitterness due to losing wagers,' " and offered $20,000 to anyone who offered evi-

\textsuperscript{378} \textit{Asinof}, supra note 8, at 45. At least one of the participants, Hall of Fame outfielder Edd Roush disagrees:

Sure the 1919 White Sox were good. But the 1919 Cincinnati Reds were \textit{better}. I'll believe that till my dying day. I don't care how good Chicago's Joe Jackson and Buck Weaver and Eddie Cicotte were. We had Heinie Groh, Jake Daubert, Greasy Neale, Rube Bressler, Larry Kopf, myself, and the best pitching staff in both leagues. We were a very underrated ball club.

\textit{Ritter}, supra note 4, at 222 (interview with Edd Roush). In fact, the Reds had won more regular season games than the White Sox (96-88). While the White Sox had pitchers Cicotte and Williams with records of 29-7 and 23-11 respectively, the next best White Sox starter, Dickie Kerr had a record of 13-8. The Reds, on the other hand, had Sam Sallee at 21-7, Hod Eller at 20-9, Dutch Reuther at 19-6 and Ray Fisher at 14-5. The Reds pitchers also had a better team earned run average (2.23-3.04). The White Sox did have a better team batting average (.287-.263). \textit{Neft \& Cohen}, supra note 7 at 88, 90.

\textsuperscript{379} See \textit{Seymour}, supra note 8, at 295. Matthewson had already been frustrated in his belief that Hal Chase had been fixing games while Matthewson was manager of the Reds. But his suspicions had been rejected by the National League, as discussed at \textit{supra} notes 287-289 and accompanying text. Matthewson, with a career pitching record of 374-187, is third in career total victories, and was a charter member of the Hall of Fame, elected in 1937 along with Ty Cobb, Honus Wagner, Babe Ruth, and Walter Johnson. \textit{Neft \& R. Cohen}, supra note 7, at 117, 628, 654.

\textsuperscript{380} See \textit{Alexander}, supra note 7, at 115; \textit{Asinof}, supra note 8, at 46-47 (indicating that Fullerton was to circle the plays on his scorecard).

\textsuperscript{381} \textit{Alexander}, supra note 7, at 115. The series itself had 514 at bats (251 by Cincinnati; 263 by Chicago). Three of the games were played over eight and one-half innings, with the home team being ahead at that time; four of the games were played over a full nine innings; and one of the games was played a full ten innings. \textit{See Neft \& Cohen}, supra note 7, at 91. The seven suspicious plays seen by Fullerton and Matthewson thus took place during the 514 at bats over 81 1/2 innings.

\textsuperscript{382} See, e.g., \textit{Murdock}, supra note 125, at 188. There is no mention of the possibility that Fullerton might have been motivated by the fact that his own comparative predictions of the results had not come to pass.

\textsuperscript{383} \textit{Smith}, supra note 14, at 194.
dence of a fix.\textsuperscript{384} The regular sporting press then rose to Comiskey's defense, deprecating Fullerton's attacks on the "sacred" institution of baseball.\textsuperscript{385} In a scathing attack, with obvious ethnic ill-will, \textit{Sporting News} editor Earl Obershain wrote:

Because a lot of dirty, long-nosed, thick-lipped and strong-smelling gamblers butted into the World's Series — an American event by the way — and some of said gamblers got crossed, stories were peddled that there was something wrong with the games that were played . . . .

Comiskey has met that by offering $10,000 [sic] for any sort of a clue that will bear out such a charge. He might as well have offered a million, for there will be no takers, because there is no such evidence, except in the mucky minds of the stinkers who — because they are crooked — think all the rest of the world can't play straight.\textsuperscript{386}

With the exception of Fullerton, who kept up his attack on the series, and one published interview with catcher Ray Schalk indicating his knowledge that seven members of the team would not be playing with the Sox in 1920, the balance of the baseball press evidently did not share Fullerton's thoughts and largely allowed allegations of a fix to die.\textsuperscript{387}

At the end of the 1920 season, however, a new allegation of the fixing of a regular season game between the National League Philadelphia Phillies and Chicago Cubs prompted a Chicago grand jury investigation.\textsuperscript{388} By the time the grand jury was convened to hear testimony on the single national league game, public interest over the play in the 1919

\textsuperscript{384} \textit{See} \textit{SEYMOUR, supra} note 8, at 295. Various other sources report the amount of the reward at $10,000, which Seymour acknowledges, but sticks with the $20,000 amount. \textit{Compare id. with SMITH, supra} note 14, at 197-98; \textit{VOIGT, supra} note 29, at 69. White Sox secretary Harry Grabiner's diary appears to support the $20,000 figure. \textit{See VEECK, supra} note 265, at 262.

\textsuperscript{385} \textit{See} \textit{VOIGT, supra} note 29, at 69. It is this defense of the 1919 Series that perhaps best perpetuates the idea that the Black Sox scandal was baseball's original sin. \textit{See supra} note 240 and accompanying text. Fullerton, whose baseball prose had previously been quoted by Spalding, was called a fool and a baseball outsider because no baseball insider would be able to seriously criticize the integrity of the game. Other publications reported to take a neutral look at all of the plays of the series and determined for themselves that the games were on the level. They then concluded "that the possibility of fixing a ball game was 'practically nil.'" \textit{SEYMOUR, supra} note 8, at 296.

\textsuperscript{386} \textit{SPINK, supra} note 9, at 60-61. Those implicated in the fix by Harry Grabiner's diary included among others Abe Attell, Carl Zork, and Arnold Rothstein, thus making it seem the ethnic slur was directed against Jews.

\textsuperscript{387} \textit{SEYMOUR, supra} note 8, at 297.

\textsuperscript{388} \textit{Id.} at 297; \textit{see also} \textit{SMITH, supra} note 14, at 198.
series had renewed. The reason for that renewed interest was sportswriter James Crusinberry, who wrote a letter to his own paper and had it signed by a prominent Chicago White Sox fan. The paper featured the letter on the front page of its sports page and the grand jury immediately began to expand its investigation. Ultimately it centered around the White Sox and their activities in the 1919 World Series.

Describing events following public disclosure of the scandal, Eliot Asinof wrote that,

the American people were at first shocked, then sickened. There was hardly a major newspaper that did not cry out its condemnation and despair . . . But the scandal was a betrayal of more than a set of ball games, even more than of the sport itself. It was a crushing blow at American pride . . . . Baseball was a manifestation of the greatest of America at play. It was our national game . . . .

Now, suddenly, that pride was shattered. The National Past-time was nothing more than another show of corruption. Asinof ascribes some of the public reaction to the fact that the American victory in the recently completed World War I was a victory for values such as sacrifice, nobility and humanity, values that then seemed shattered.

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389. See Murdock, supra note 125, at 190.
390. According to Sports Illustrated, Crusinberry was the sportswriter who first broke the Black Sox scandal. A Newsman's Biggest Story, Sports Illustrated, September 17, 1956, at 69. While the historical evidence today shows this statement to be clearly erroneous, it also shows how little credit Fullerton was given by this popular sports journal. Crusinberry claims that it was American League President Ban Johnson who got the grand jury to investigate the rival National League. Id. at 71. Other reports, however, indicate that Johnson's role was more of the advisory nature. When he was asked by the Judge supervising the grand jury if the fixing of a game was a matter that a grand jury should investigate, Johnson supposedly replied: "'Most decidedly it is.'" Murdock, supra note 125, at 190.
391. A Newsman's Biggest Story, supra note 390, at 71. Writing this article for Sports Illustrated was the first time Crusinberry admitted that he actually wrote the letter for noted Sox fan Fred Loomis. Id.
392. See Smith, supra note 14, at 198.
393. See Asinor, supra note 8, at 159. For several months, the investigation lagged and appeared to be going nowhere. National League president John Heydler, for example, told the grand jury that the 1919 Series was competitively played. It was not until Rube Benton, a pitcher for the New York Giants admitted he heard the series was fixed and told the grand jury that they should talk to Eddie Cicotte that the story began to unfold. Id. at 158-160.
394. At the same time, gambler Billy Maharg decided to go public, telling a Philadelphia sports writer of his involvement in the fix. It was publication of Maharg's story, including his naming of Cicotte and Gandil, that is said to have finally persuaded Cicotte to come forward and "confess" to the grand jury. See Thompson & Boswell, supra note 3, at 88-90.
395. Id.
tered by the actions of the Black Sox. While this seems undoubtedly true, public reaction to the revelations were probably also based on the dual method by which sports had been reported to the great majority of Americans prior to the scandal.

On one side were journalists for whom all of baseball was a romance and who therefore portrayed ballplayers as superheroes without fault. Baseball’s “rowdies” were said to be “‘fierce competitors,’” and “play-boys” were players who simply “‘liked the bright lights.’”91 Individual players were portrayed as commoners with character, “modest, yet tough, virile American males in keeping with the image glorified in Jack London’s novels.”92 The game itself was also romanticized, with claims that it made its participants develop character traits necessary to a successful life and with managers portrayed as brilliant military strategists. The game was a model for American morality.93

On the other side were writers like Hugh Fullerton, who portrayed players and the game of baseball critically. Ring Lardner of this latter school, for example, portrayed the player as “an insensitive, oafish braggart” who, when off the field, “was a gluttonous, beer-guzzling penny pincher.”94

Surely such a contrast sold newspapers. Editors encouraged sports writers to maintain fan interest with stories rife with speculation and gossip.95 At least one estimate was that one-fourth of some big city news-

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91 Seymour, supra note 8, at 97. Seymour says these journalists are from the “‘Gee whiz’” or “‘Aw nuts’” school of journalism. Id.
92 Id. at 93.
93 Id. at 92-93. For example, John McGraw was called both the “‘Mastermind’” and “‘Little Napoleon.’” Id.
94 Id. at 97-98.
95 Id. at 92. Seymour claims that total sports news increased from 4% of the total newspaper to 16% between 1890 and 1923. Seymour also appears to suggest that the development of the “‘Aw nuts’” and more critical schools was consecutive rather than concurrent; however, with writers like Lardner being in the latter school, it seems more logical that there was at least some overlap of the schools.

Lardner played a role in both Fullerton and Crusinberry's efforts to uncover the story. While Fullerton and Matthewson were considering how to tell if a particular play had been “thrown” by White Sox players, Lardner came to tell both of them how he had learned that Chicago gamblers were trying to fix the series by getting the entire Cincinnati pitching staff drunk so they would lose the series. The series was apparently being “rigged” on both sides. See Asinof, supra note 8, at 47. One of the events causing Crusinberry to insist that the grand jury look into the scandal took place while Crusinberry and Lardner were covering the White Sox in New York in July, 1920. During a rainy afternoon, Crusinberry and Lardner were telephoned by Chicago manager “Kid” Gleason and told to come listen to a New York gambler in the hotel bar. When Crusinberry and Lardner reached the bar, they overheard gambler Abe Attell tell Gleason that famed New York gambler Arnold Rothstein had been behind the fix. A Newsman’s Biggest Story, supra note 390, at 70.
papers were purchased by fans looking for sports coverage that included not only game statistics, but feature stories and "exposes." 401

Unfortunately, as a result baseball fans were fed both ends of the reporting spectrum—but nothing from the middle. In fact, baseball players, like any other group, contained "every kind of individual." As one ballplayer said: " 'We had stupid guys, smart guys, tough guys, mild guys, crazy guys, college men, slickers from the city and hicks from the country.' " 402 In short, baseball players were human beings, neither more nor less moral than others, and probably just as concerned about their "moral and social condition" and just as concerned about making "improvements in their art." 403

Tipping the repertorial balance were the owners. While team owners railed against criticism by certain writers, complaints about conditions in the press box, and the possibility that too much press coverage could hurt gate attendance, 404 baseball owners recognized the need to freely accommodate the press. 405 While there continued to be a debate be-

401. See Voigt, supra note 29, at 190-91.
402. Seymour, supra note 8, at 98. It is clear that the impression of the baseball player as ignorant oaf was inaccurate. See Ritter, supra note 4, at 152-53 (interview with Harry Hooper) indicating the extent of college-educated players even in 1909; Bill Carrigan, Andy Coakley and Jack Berry (Holy Cross), Christy Matthews (Bucknell), Jake Stahl (University of Illinois), Larry Gardner and Ray Collins (University of Vermont), Hooper and Duffy Lewis (St. Mary's), Marty McHale (University of Maine), Chris Mahoney (Fordham), Frank Chance (Washington University), Hal Chase (Santa Clara), Buck Herzog (University of Maryland), Orvio Overall (University of California), Eddie Plank (Gettysburg), Chief Bender (Dickinson), Art Devlin (Georgetown), Ginger Beaumont (Beloit), Eddie Collins (Columbia), Eddie Grant (Harvard), Fred Tenney (Brown), Bob Bescher and Ed Reulbach (Notre Dame), Jack Coombs (Colby), Harry Davis (Girard College), Chief Meyers (Dartmouth), Davey Jones (Dixon College), and John McGraw (St. Bonaventure). Hooper also indicated that after being in the Major Leagues, Miller Huggins graduated from the Cincinnati Law School and Hugh Jennings graduated from the Cornell Law School. He indicated that perhaps one in six major leaguers had attended college. Id.
404. See Voigt, supra note 29, at 190-91. Most of these issues have now been resolved. While press boxes were once overrun by non-press personnel, many of whom were friends of the owner, see id. at 190, the press box of today is exclusively controlled by the sporting press. Not even the owner can tell the press who can, or cannot enter. See Stanley Woodward & Frank Graham, Jr., Sportswriting 61 (1967).

The problem of press coverage hurting gate attendance remains and may be the reason that all professional leagues have an antitrust exemption if the members agree to a monopolistic media package; even one that prevents broadcasting of a local team's events under certain circumstances. 15 U.S.C. § 1291 et. seq. (1982).
405. See Seymour, supra note 8, at 92-93. When newspapers began to reduce the space given to baseball because of the telegraph, the sporting press warned owners to be more open with that press. See id. In some cases, telegraphers were given more limited access to games. Voigt, supra note 29, at 191.
between owners and the press about “who was exploiting whom,” the fact remained that baseball sold newspapers and that editors of those papers would have printed more baseball news if it had been available. As a result, the press enjoyed easy access to tickets and free food and drink courtesy of the major league teams, and owners like Charles Comiskey were generally viewed favorably in print.

Indeed, Comiskey’s selective generosity became part of the discontent of the White Sox players. While the players existed on a daily food allowance lower than players on other teams, Comiskey’s generosity toward the press had no major league baseball peer:

For them, he had a special room in Comiskey Park, with a huge table laden with succulent roasts and salads, a chef to serve them, and a bottomless supply of fine bourbon to liven their spirits.

In return, the press spoke highly of Comiskey:

Ever since he first started to make “copy” for the newspapers there has been much mystery why he should get so much publicity. There is no secret about it. He has furnished news fit to print, has treated the cub reporter with as much consideration as the veteran, . . . and has never asked for a retraction. . . . If on the other hand the truth or falsity of a report needed clearing up, a ‘Comiskey statement’ would stand the test. Never an equivocation. It was either ‘yes’ or ‘no.’

It now appears that Comiskey was able to use his reputation with the press to his advantage following Fullerton’s expose that the World Series was fixed.

If it is assumed that Fullerton did consult Comiskey before printing the story claiming that seven Sox would not be resigned for 1920, the later denial of a fix by Comiskey and the promise of a reward for any evidence of wrongdoing, if not equivocation, can only be viewed as playing both ends against the middle. If Fullerton’s allegations turned out to be true, Comiskey, despite public denial, had positioned himself

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407. See Woodward & Graham, supra note 404, at 55, 61-62. While this book is undoubtedly speaking of the press box of the 1960s, it appears to adequately convey the scene at the time of the Black Sox scandal, at least so far as Comiskey’s White Sox were concerned. See infra note 417 and accompanying text.
408. Asinof, supra note 8, at 21.
409. Axelsson, supra note 70, at 309-10.
410. See text accompanying supra note 382. Even if Fullerton had not consulted Comiskey, Axelsson indicates that “Commy” would have supported Fullerton: “To deny a yarn because it was not true or because it didn’t please him, never entered his mind. . . . ‘Well, it must be right. The Bazoo says so.’” Axelsson, supra note 70, at 309-310.
411. See supra note 384 and accompanying text.
as a Fullerton confidant, thus making the explanation that he resigned the players only for the good of the team plausible. If, on the other hand, the story turned out to be false, Comiskey could rely on his reputation of never requesting a retraction and point instead to his ongoing belief in his players, as evidenced by their signings. In either event, Comiskey would have remained blameless.

That would then leave fault squarely on the players. Having vilified their colleagues who dared to print the story of a fix, and having traditionally written of baseball players as demigods with enviable moral character, and considering the American traits so recently defended by the World War, the sporting press' full swing in the opposite direction following public exposure of the scandal's facts should not be surprising.

What is interesting, however, is public reaction to the revelations. The general public assumed each of these players was making about $10,000. When this myth was finally debunked, the White Sox magnate was viewed as stingy. Thus, when the criminal verdict of acquittal was read, "spectators cheered, and the judge congratulated the jury, whose members responded by carrying the vindicated players from the courtroom on their shoulders." When a Chicago Tribune reporter interviewed seven citizens following the verdict, five thought the players should be reinstated. In south Chicago, 14,000 fans signed a petition seeking reinstatement of Buck Weaver in just one day. The Illinois Attorney General's office closed its files, indicating it would seek no further baseball gambling indictments of either ballplayers or gamblers.

The public, it appeared, had learned the same lesson previously learned by both owners and players. Contrary to what they had been told by the press, the public viewed the game with "a diminished sense of reverence. The notion that it is a big business, run for profit, is now widely embraced."

The press, however, having publicly humiliated itself by blind loyalty to the game and its owners following the World Series, was slower to learn. In addition, the press needed baseball for success of its sports page, which in turn helped provide a profitable paper. As a result, newspapers described the result as "a petty and hollow triumph" for the players, a triumph that showed "a dangerous lesion in the American

412. Seymour, supra note 8, at 334.
413. Thompson & Boswell, supra note 3, at 92.
414. Asinof, supra note 8, at 274.
415. Id.
moral sense.' ”417 It referred to the result as a “travesty,” and the New York World is reported to have chastised owners that “if the crooks who were acquitted try to show their faces in decent sporting circles, they should be boycotted and blackballed.’ ”418

Unfortunately, whatever the motive, the press again played into the hands of major league owners, who uniformly publicly decried the jury's verdicts. American League president Ban Johnson is said to have called the players' actions “the greatest crime it was possible to commit in baseball. The fact that they were freed does not... minimize the magnitude of the offense.”419

In the long run, it was this self-righteousness of the press and the owners that prevailed. Despite having done virtually nothing to aid the investigation of the series,420 baseball's first commissioner, Judge Landis, was given virtually carte blanche authority by the owners, partially as a result of the fear the ongoing scandal would have on their pocketbooks.421 He was able to use the press call for ostracism of the players,422 to become the “‘puritan in Babylon,” 423 and without regard to the extra-legal nature of his acts,424 to begin to build his own empire as czar of baseball425 by expelling all eight of the players.426

XIII. Conclusion

Eight years before the Black Sox, baseball pioneer A.G. Spalding called the relationship between non-player baseball owners and players an “irrepressible conflict between Labor and Capital asserting itself under a new guise.”427

417. SEYMOUR, supra note 8, at 329 (quoting what he refers to as “four typical comments from as many papers.”).
418. Thompson & Boswell, supra note 3, at 92-93.
419. ASINO, supra note 8, at 274.
420. See MURDOCK, supra note 125, at 192. Landis' biographer seems to agree. See SPINK, supra note 9 at 84 (recognizing that Landis was not, “on the surface . . . as active as Johnson.”).
421. See ALEXANDER, supra note 7, at 126.
422. See Thompson & Boswell, supra note 3, at 92-93.
423. VOIGT, supra note 29, at 75.
424. ALEXANDER, supra note 7, at 132.
425. See MURDOCK, supra note 125, at 192.
426. The fans continued to believe in the players. See SEYMOUR, supra note 8, at 328-31 (describing fan efforts to petition for reinstatement for Buck Weaver and the fact that a jury found in favor of Jackson in a contract claim against Comiskey for failing to pay on Jackson's three year salary).
427. SPALDING, supra note 2, at 118.
Following the demise of the Players' League, Hall of Fame player and player-organizer John M. Ward wrote that he and his baseball playing colleagues were not sporting men, but instead were "hired to do certain work, and do it well."\(^{428}\) Despite the "free agency" stemming from repeated judicial refusal to enforce the "reserve rule," Ward's contract freedom had been taken from him by organized baseball's superior economic muscle. From the original American Association, through the Player's League, the American League, and the Federal League, all meaningful competition to Spalding's "Capital" was systematically eliminated by the organized baseball monopoly.

As a result, what Ward wrote at the turn of the century was equally true in 1919. The baseball player was permitted to shop his competitive wares, but lacked a competitive market. Because of the "reserve" rule, other labor-like remedies, such as hold-outs and strikes were futile.

That players had no effective remedy did not mean, however, that baseball was free from labor injustice. Far from it. Members of the 1919 Chicago White Sox were victims of a pattern of disparate treatment, from being ill-fed, to underpaid, to being the objects of broken promises by one of baseball's foremost magnates.

Today, the circumstantial evidence makes it difficult to positively determine what actually took place during the 1919 World Series.\(^{429}\) As a result, the historical record holding the eight White Sox responsible for conspiracy to fix the 1919 World Series must be supported. The reason for that conspiracy, however, was not an absence of moral character. The dictionary defines "greed" as "a desire for more than one needs or wants."\(^{430}\) There is simply no evidence to suggest that Ed Cicotte, Joe Jackson or the other "Black" Sox were motivated by anything other than a desire to receive fair payment for the labor they performed.\(^{431}\) In acting as they did, they earned bonuses Comiskey had promised but not paid and opened the White Sox owner's wallet for subsequent salary negotiations. While Cicotte's famous comment, "'I got mine,'"\(^{432}\) can be interpreted as arrogance, it could just as easily be interpreted as success "in a struggle for 'security,'"\(^{433}\) a universal goal of labor. The fact that success took place as a by-product of gambling was insignificant for

\(^{428}\) Voigt, supra note 29, at 215.
\(^{429}\) See, e.g., Thompson & Boswell, supra note 3, at 24.
\(^{430}\) American Heritage Dictionary of the English Language 574 (1978).
\(^{431}\) That they were baseball players who were overpaid in relation to much of the balance of society should not be an issue.
\(^{432}\) See Asinof, supra note 8, at 206.
\(^{433}\) Forkosch, supra note 46, at 2.
these players. Not only did they have no alternative, but gambling was part of the baseball player's daily life. All eight of the players were on the roster of the 1917 World Championship White Sox team assessed $50 per player, with the alleged approval of White Sox management, to pay the Detroit Tigers to throw games.\textsuperscript{434}

Unfortunately, the baseball press did not understand either Spalding's classic labor struggle or the symbiotic relationship between baseball and gambling. From the outset, the media opposed player free agency and any link between baseball and gambling. Both threatened economic success—the former by creating the possibility of a non-competitive team generating little fan interest—the latter by threatening the potential honesty of the game. So strong was the influence of the press that even the players believed they were not laborers and that any contact by them with gamblers was evil.\textsuperscript{435} When it came to the Black Sox, the press overplayed the gambling aspects of an otherwise labor dispute.\textsuperscript{436}

By making gambling, rather than labor, the focus of public attention, the press allied itself with the owners. Despite public recognition of the dispute as a business one, organized baseball nonetheless used the press' misplaced demand for ostracism to clean up the game to eliminate labor troublemakers.

That their complaints were labor-oriented is evident from a modern day comparison. Jim “Catfish” Hunter’s 1974 dispute with owner

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\item[434.] Compare Neft & Cohen, supra note 7, at 80 (showing the 1917 White Sox roster) with Asinor, supra note 8, at 284-85 (discussing Risberg and Gandil's disclosure of the 1917 fix and the fact that when it was disclosed in 1927, Commissioner Landis decided to overlook the event as having taken place before his tenure). See also Veeck, supra note 265, at 274 (discussing White Sox attorney Alfred Austrian's knowledge of the 1917 transaction).
\item[435.] See Gandil & Durslag, supra note 9, at 68.
\item[436.] See Seymour, supra note 8, at 331. This is part of the “original sin” notion discussed in text accompanying supra note 240. For example, even in 1919, the Black Sox was not baseball's only gambling scandal. In the same year, there was also an attempt to fix the results of the Pacific Coast League championship. See Bob Lemke, Black Sox Had Nothing on Babe Borton, The Bleacher Bum, Sports Collectors Digest, August 22, 1993, at 50.

Hal Chase is mentioned throughout the literature as being involved in the 1919 Black Sox scandal. Indeed, he was one of those indicted. See Asinor, supra note 8, at 225. In Neft & Cohen, supra note 53, at 94, Chase is listed as “DU,” “Unofficially declared ineligible for life.” That Chase was barred would be consistent with the fate of the other players linked to the case. That his banishment was “unofficial” would not. Seymour indicates: “More astonishing, Landis not only overlooked Hal Chase, a prime fixer of the Series who had cheated for years, but even wrote him officially later that there was nothing against him.” Seymour, supra note 8, at 338 (emphasis added). Chase's “unofficial ineligibility” then may have been only owner refusal to sign him.

Others who confessed their pre-World Series knowledge to the fix, however, such as Rube Benton, were cleared to play baseball again, see id. at 376, and did play, through he 1925 season. See Neft & Cohen, supra note 7, at 110.
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Charles Finley is analogous to Cicotte’s claim to a bonus for the 1917 season. Both cases involved a unilateral decision by an owner to change the player’s salary structure. Hunter was to be paid $50,000 as salary in 1974 and an additional $50,000 was to be used by Finley to purchase an annuity for Hunter. When Finley did not purchase the annuity directly, and later offered Hunter the money in cash, Hunter sought free agency for breach of his player contract. The matter was resolved through the union-won grievance process. When Cicotte was held out of games after winning twenty eight, a similar grievance would have resolved whether Comiskey thwarted Cicotte’s contractual performance. Indeed, Cicotte’s lawyer indicated that none of the 1919 events would have happened if the players had the organizational structure of today.

If the “Black Sox” committed wrong, it was in effecting a self-help remedy to correct their perception of labor injustice. They may have been ineffective; they may have gone too far; they may have even been wrong; clearly their actions have caused baseball to view gambling with a rightfully suspicious eye. But they were not gamblers trying to defraud their team or the public. Rather, they were laborers rebelling against management. History should judge them only in that light.

437. See Miller, supra note 7, at 227-37. The real dispute was over taxes. By deferring his income, Hunter would not have to pay income tax on the $50,000 used to purchase the annuity. Finley, however, could not deduct the $50,000 as he could if it were salary to Hunter. Id. at 228.

438. Voigt, supra note 29, at 75. See also, Ira Berkow, Baseball Cards: Out of the Pocket and into the Met, The New York Times, Aug. 13, 1993, at C1, col. 3 (making the point “that players today are much less likely [than the Black Sox] to connive to throw a game, because they have salaries C.E.O.’s might envy.”).

439. This article is not intended as a “brief” for selection of Joe Jackson or Buck Weaver or any of the other players to the Baseball Hall of Fame. Nor is it a criticism of baseball writers as the selection committee for the Hall. Compare Howard Cosell, What’s Wrong With Sports 140-41 (1991).

Hall of Fame selection requires an assessment of a player’s record, ability, integrity, sportsmanship, character and contribution to his teams(s). That assessment cannot, however consider other player activities in baseball. See John A. Mercurio, Record Profiles of Baseball’s Hall of Famers 466 (1990). Following this standard, the early baseball labor activities of John M. Ward, the labor hold-outs of Ty Cobb, Sandy Koufax, and Don Drysdale, and the free agency of Catfish Hunter have been excluded. It would thus seem logical to similarly exclude the labor activities of players like Jackson and Weaver.