

Labor Issues in Early Baseball History

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In post-Reconstruction American history, one of the strongest cultural icons has been baseball. A study of baseball history is, in its most basic form, a study of American history. Possibly the most obvious commonality throughout this portion of American history other than colonialism and the ascension to the strongest global superpower, are issues of labor within the nation. Labor strikes, anti-trust law, and the general idea that owners, for the gain of just a few, exploit their laborers, are important ideas following industrialization. The professionalization of baseball is not particularly different. The history of professional baseball is a labor history hidden under a popular cultural history. Baseball, in the eyes of many people, is a romantic story about heroes, villains, and young men who followed their dreams. Baseball's early history is not just that type of story, it is also a tumultuous history of multifaceted labor issues that will affect baseball for the years to come.

The first baseball team to compete for money was the Cincinnati Red Stockings, which played its first professional season in 1869. Prior to this team being established, most people who played baseball, or some local variant of it, were just playing the game to pass the time. It was largely seen as a game for recreation played mainly by gentlemen, or in the case of the Civil War, soldiers. Baseball leagues, such as the National Association of Base Ball Players, had sprung by this time, however, the Cincinnati Red Stockings were the first to pay players on the team specifically for their ability to play baseball. This was only a few years after the Brooklyn Excelsiors were reprimanded for violating the rule about providing "expensive entertainment" to the opposing Washington Nationals. Baseball was a spectacle that helped people heal from the Civil War. When people were playing baseball, there was no Union vs. Confederacy or even a "north, south, east, or west," at least among members of the Excelsiors. The New York Clipper states: "the ball players' 'policy of reconstruction' is one

marked by true fraternal regard, irrespective of all political opinions or sectional feelings.”¹ The Excelsiors received punishment because they paid the Nationals in the form of this expensive entertainment. By 1869, however, the Red Stockings were paying their players.

Following the early dominance of the Cincinnati Red Stockings, baseball evolved from simply an American pastime to a legitimate spectator sport. Early baseball leagues, such as the National Association of Base Ball Players were not particularly stable. With the formation of the National League of Professional Baseball Clubs (known today as the National League) in 1876, the sport gained that stability. The National League paid all of its players and made it clear that this would be the case. What is more important about the formation of the National League is that they sought to “encourage, foster and elevate the game of base ball...enact and enforce proper rules for the exhibition and conduct of the game...[and] protect and promote the mutual interests of professional base ball clubs and professional base ball players.”² Each of these three parts are important for the following reasons. The idea that baseball needs to be “elevated” is what brings the game from a pastime to a cultural icon. The rules and general conduct in the game not only must be established, but will also be changed over time. Most importantly for this study, the “mutual interests” referred to in the original Constitution of the league are centered on money and labor. The profitability of teams, such as the Red Stockings, and the control given to team owners because of how profitable baseball was becoming, is the reason baseball began to expand so much in the 1870s. However, much like any other industry, baseball was destined to have labor conflict due to their working conditions.

In order to understand why baseball faced a labor issue shortly after the formation of the National League, a few points about labor have to be made. First, labor is not simply men and women who are doing physically demanding tasks like building railroads. Labor, broadly considered, is work done by people in exchange for money or some other agreed upon service. Therefore, baseball

¹ George Kirsch, *Baseball in Blue and Grey* (Princeton: Princeton University Press, 2007), 118.

² SCP Auctions, “Constitution of National League of Professional Baseball Clubs,” digital image, ForTheWin USA Today Sports, April 21, 2017, accessed November 10, 2018, <https://ftw.usatoday.com/2017/04/mlb-original-constitution-national-league-base-ball-sale-auction>.

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players in the 1870s, as with today, are laborers. Their form of labor is playing baseball, and it is labor because it takes physical work to do anything on a baseball field. Pitching, fielding, throwing the ball, hitting, and running the bases, the five major components of the game, all require work; work being the displacement of anything from where it once was. Therefore, Clayton Kershaw is paid for his ability to throw a mid-90s fastball and a devastating curveball with his left hand, and Giancarlo Stanton is paid for his ability to hit those pitches over the outfield fence. One of the common sentiments throughout the history of baseball is that these players are not laborers because they are “paid to play a child’s game.” Whether baseball is a “child’s game” is certainly debatable. Regardless, Kershaw, Stanton, and thousands of other people over 100+ years of baseball history are laborers because they are paid to execute tasks that they are very good at doing.

Since baseball players, and other professional athletes for that matter, are laborers, they are naturally subject to labor issues. Labor issues arise in different ways in different industries. For example, railroad workers along the Baltimore & Ohio Railroad struck in 1877 because their pay was reduced numerous times in the previous year. In this particular instance, President Rutherford B. Hayes put the strike to rest by sending in federal troops.³ Baseball players had different grievances. Like most employees in a business, baseball players had contracts that bound them to their team. However, baseball players could not simply leave the team they were playing for and play for someone else that would pay them better. Baseball players were bound to their team for the length of the contract, and if they refused to play, they had to retire. One stipulation in every player’s contract was the reserve clause. With the reserve clause, the player under contract would not only be bound to that specific team for the season, it granted the team the right to renew that contract at will. Therefore, a player on the roster in 1880 would be on the roster again in 1881, regardless of whether or not he wanted to play for that team. Therefore, the only way a player could leave a team was if they were traded, released unconditionally, or if they

³ Joseph Adamczyk, *Encyclopaedia Britannica*, s.v. “Great Railroad Strike of 1877,” January 31, 2018, accessed November 11, 2018, <https://www.britannica.com/topic/Great-Railroad-Strike-of-1877>.

retired, which usually meant they would have to find a new profession as baseball players did not make enormous amounts of money as they do in the 21st century. This was an effective way to keep player salary low while the popularity of baseball was on the rise. However, it was unfair to players who wanted to receive pay based on their value to the team.

One player who was particularly upset with the reserve clause was John Montgomery Ward. From 1878-1882, Ward was a standout player for the Providence Grays of the National League, at least in part because he pitched the second-ever Perfect Game in 1880. After being sold to the New York Gothams in 1883, he attended law school at Columbia. In 1885, he earned his law degree, followed by a political science degree in 1886. In addition, in 1885, Ward formed the first trade union in baseball, known as the “Brotherhood of Professional Base-Ball Players.”⁴ This was the first of many players’ unions that would end up failing. Despite the failure of Ward’s union, it was effective because it challenged the reserve clause somewhat successfully. The reserve system was the National League’s way of controlling their players. In protest of the corruption of the system, in 1890, Ward formed the Players’ League.

The Players’ League was instrumental in the challenge to the reserve system in that players who agreed with Ward were able to leave their team. However, The Players’ League lacked the necessary backing to retain their status as a Major League. The only clear incentive for players who wanted to join the league to do so is the fact that the reserve clause did not exist. Therefore, players who did not protest the reserve system stayed with their teams. Plus, as there were multiple baseball leagues and many more disillusioned fans, the Players’ League operated at a loss of about \$125,000 by the end of the season.⁵ The Players’ League soon folded, leaving behind the challenge to the reserve system. The challenge was not for nothing, however, as players who were not paid in a timely matter could become a free agent after fifteen days, or if they were not reserved by March 15 of the following season. However, according to baseball

⁴ "John Ward," Baseball Hall of Fame, n.d., accessed November 11, 2018, <https://baseball-hall.org/hall-of-famers/ward-john>; “Brotherhood of Professional Base-Ball Players” is cited in “Helen Dauvray's Choice” as “Ball Players’ Brotherhood;” Helen Dauvray notably married Ward, and subsequently, had the championship prize named in her honor in 1887.

⁵ Harold Seymour, *Baseball: The Early Years*, (New York: Oxford University Press, 1989), 238.

historian Harold Seymour, this was not enough for the press to declare that “that the sales system was destroyed, the blacklist abolished, and the abuses of the reserve corrected.”⁶ Rather, much like the result of the aforementioned Great Railroad Strike, the aggrieved laborers saw very little change in their work conditions.

The Players’ League was not the only serious challenge to National League superiority. In the following seventy years, there would be three more serious challenges to the National League: the American League, the Federal League, and the Continental League. The last of the three is not one that reflects labor struggles directly. Instead, it was the brainchild of William Shea, who, along with many other New Yorkers, was upset that there was only one team in New York following the Westward movement of both the Brooklyn Dodgers and New York Giants in 1957. The American League and Federal League, however, very much reflect labor struggles. The American League was formed well before the Federal League.

The American League was born out of the Western League, which was a minor league during much of the National League’s dominance. The president of the Western League was Byron Bancroft “Ban” Johnson, a staunch critic of the “rowdy atmosphere in the National League...and Cincinnati Red Stockings owner John T. Brush for being too interested in turning profits” rather than being a “moral example for baseball” as Johnson intended for himself.⁷ The National League was the dominant force of baseball at the time; however, towns that had Western League teams supported them. By 1899, in large part because of the leadership of Ban Johnson, the Western League had a similar level of talent on their rosters as the National League. The following year, the league was renamed American League of Professional Baseball Clubs, or, American League, though in its infancy, it was confused with the historic “American Association” by the *Bridgeport Herald*.⁸ Regardless, after the successful 1900 season, the American League did three things that allowed it to become successful. First, it refused to re-sign the National Agreement under the league’s

⁶ Seymour, 249.

⁷ “Ban Johnson,” Baseball Hall of Fame, accessed November 11, 2018, <https://baseball-hall.org/hall-of-famers/johnson-ban>.

⁸ “American Association,” *Bridgeport Herald*, January 20, 1901.

new official title. The National Agreement's purpose was to establish how the National League asserted its dominance over baseball. Under this agreement, the American League was not yet considered by the National League to be a "major league," but above a Class A team.⁹ Ban Johnson wanted his league to compete with the National League as a major league, so signing the National Agreement would concede that the American League was not a major league.

The second thing that allowed the American League to grow was the transfer of numerous teams to larger markets, thus, more fans, and therefore more money for better talent. In 1899, the final season under the name "Western League," teams were located in Buffalo, Columbus/Grand Rapids,¹⁰ Detroit, Indianapolis, Kansas City, Milwaukee, Minneapolis, and St. Paul.¹¹ Of these cities, Detroit is the only one that retained its team and continues to host the same franchise today; although, Kansas City, Milwaukee, and Minneapolis host profitable Major League Baseball teams today. Although this would not remain the case, the New York Times reported in 1899 that the cities for the new league would be "St. Louis, Milwaukee, Detroit, and Chicago in the West, and Baltimore, New York, Philadelphia, and Washington in the East."¹² According to 1900 U.S. Census data, the second list of cities was the top six cities in population, Milwaukee and Washington D.C. were the fourteenth and fifteenth largest respectively.¹³ Also, they are noticeably further to the east. This means that the new American League had more opportunity to reach new fans and attract better players than the Western League ever did.

These new fans were the main reason the American League was successful in its infancy. According to Seymour, from 1901-1902, the first two official seasons under the name "American League," the league as a whole saw an attendance increase of over 500,000 fans, while the National League saw a total decrease of nearly 300,000 fans. Due to this shift, the American League had a

⁹ "American Association."

¹⁰ A mid-season move from Columbus to Grand Rapids necessitates both cities being listed.

¹¹ BaseballReference, "1899 Western League," BR Bullpen, accessed November 20, 2018, <https://www.baseball-reference.com/register/league.cgi?id=ec03c6e7>.

¹² "A New Baseball League," *New York Times*, September 18, 1899.

¹³ United States, Bureau of the Census, *Table 13. Population of the 100 Largest Urban Places: 1900*, June 15, 1998, accessed November 29, 2018, <https://www.census.gov/population/www/documentation/twps0027/tab13.txt>

higher attendance in 1902.¹⁴ Therefore, even though the American League had not yet asserted dominance over the National League, it was proving to be a legitimate baseball league, capable of challenging the superiority of the National League.

The third move the American League made that allowed it to become successful was the establishment of peace between the two leagues. The two had gone to war over American League teams raiding National League rosters. However, according to Albert G. Spalding, “it did not take [National League owners] long to realize that the time had come for peace with its rival, if peace was possible.”¹⁵ All the owners except John T. Brush, owner of the National League’s New York team, agreed the time had come where they established a system where the American League would be recognized as a Major League and the two could work together. Brush dissented because the American League intended to relocate their Baltimore team to New York, and he was worried about the competition in the city that already had two National League teams, the other in Brooklyn.¹⁶

In January of 1903, league representatives met in New York to work out the “New National Agreement.” Under this new agreement, both leagues would remain separate entities, with the authority to certain things without approval from the other league. For example, it was common for each league to hire their own umpires, after the tradition of having a well-respected fan receive the honor of being the game’s umpire began to fade away. However, the leagues were not in full control. There was a new National Commission established as a result of this new agreement. The three members of the commission were the Presidents of the respective leagues, and a third party that was agreed upon by the two presidents, who was often referred to as the “chairman.” The National Commission also had the authority to enforce fines on those who broke the rules, rather than entirely leaving it on the league who reigns over the deviant

¹⁴ Seymour, *Baseball: The Early Years*, 314.

¹⁵ A. G. Spalding, *Americas National Game: Historic Facts Concerning the Beginning, Evolution, Development and Popularity of Base Ball: With Personal Reminiscences of Its Vicissitudes, Its Victories and Its Votaries*, 2nd ed. (Lincoln: University of Nebraska Press, 1992), 331.

¹⁶ Spalding, 331.

player/official. Most importantly, the National Commission would settle disputes over players who were claimed by a member of two leagues. If the case involved one major league and one minor league, the case would be decided by the uninvolved league's president and the chairman, with a tie being broken in favor of the chairman. More notably, if the two major leagues were in dispute over a player's services, the case was decided only by the chairman, likely because the two leagues would disagree every time if they had been involved in that setting. This was described by Spalding as "a Supreme Court of Base Ball."¹⁷ The downside to this agreement however, fell onto the players.

One of the positives to joining the American League prior to this arrangement was that the American League did not have the highly controversial reserve clause. The Players League challenged it successfully, in that players knew why the reserve clause was harmful to them. Yet, it remained in player contracts in the National League. The American League, under Ban Johnson, built much of its rosters on the idea that players who were dissatisfied with the reserve clause could join the newly reformed league. Plus, the American League previously paid their players a better salary. However, by the time peace was established between the two major leagues, the reserve system had been implemented in both leagues, and was not formally challenged again for a decade.

Between the years 1903-1912, my understanding of labor issues in baseball shifts its focus away from understanding how baseball leagues work and what makes them successful, to studies of individuals, their teams, and the issues they face and why. One of the first such cases is the establishment of the World Series. The National League had played a championship series against teams from other historic leagues before. In those seasons, the World Series was an exhibition. In 1903, the first instance of the modern World Series was played between the champions of the American League and the National League; the Boston Americans and the Pittsburgh Pirates respectively, and those two teams played against each other to declare who was better. As part of ending the fighting between the two leagues, owners Barney Dreyfuss of Pittsburgh and Henry Killilea of Boston agreed to meet for a best-of-nine series between the clubs. For the American League this was a good way to prove to the

¹⁷ Spalding, 331-334.

National League that their teams would be just as competitive with the older league. The National League saw the event as an essential method for reconciling the leagues' relationship.¹⁸ Both of these outcomes occurred. The two leagues came together very well for this exhibition, which is what the National League should have hoped for. Also, the Boston Americans defeated the Pittsburgh Pirates five games to three, which, according to Spalding, occurred "to the very great surprise of the friends of the National League, who, up to that time had regarded the players of the American League as not in the same class as those of the older organization." Thanks to this upset victory on the part of the American League team, they had proven to the National League that their players were superior, or potentially only equal.¹⁹

It seems a little odd to claim wholeheartedly that one league is superior to another because they contained the team that won the championship. Boston won equally as many games as Pittsburgh in 1903, and like the 2018 Boston team, they decimated all real competition in their league over the course of the season. Their nearest competitor in the standings was the Philadelphia Athletics, which won sixteen less games. In the National League, the Pittsburgh team won their pennant with ease, however, not with as much as Boston. They only had seven more wins than the second place New York Giants.²⁰ The World Series is not a great way to prove which league was superior because only the top team from each side participated. Although, despite how problematic the methodology is, in the long run, that idea has been confirmed. From 1903-2018, the American League participant has won the World Series sixty-six times over the National League's forty-eight.²¹

Due to the popularity of the inaugural World Series, it was decided that one should be held every year following the 1903 iteration. However, the 1904 World Series was cancelled. One of the lingering issues during the peaceful integration of the two leagues was the Baltimore franchise's relocation. John T.

¹⁸ Baseball Almanac, "1903 World Series Boston Americans (5) vs Pittsburgh Pirates (3)," Baseball Almanac, accessed November 30, 2018, <http://www.baseball-almanac.com/ws/yr1903ws.shtml>.

¹⁹ Spalding, *Americas National Game*, 337.

²⁰ BaseballReference, "1903 MLB Team Statistics," accessed November 30, 2018, <https://www.baseball-reference.com/leagues/MLB/1903.shtml>.

²¹ "World Series Overview," Major League Baseball, accessed November 30, 2018, http://mlb.mlb.com/mlb/history/postseason/mlb_ws.jsp?feature=club_champs.

Brush was the owner of the New York Giants at the time, and he was the only owner who actively protested the integration because he did not want a third team within New York City. As if it was for revenge, Brush decided his team would not face the Boston Red Sox (who just changed names from Americans) in their attempt to defend their championship.²² This did not change the fact that they were the National League Champions. This dispute caused a higher demand for another World Series. When Brush's Giants won the National League pennant again in 1905, there was no protest; they defeated the Philadelphia Athletics in five games.²³

The establishment of the World Series is the first of this new era of labor issues because it helped baseball grow further than the leagues had themselves. The World Series was not a product of bad labor relations; both teams paid their players over \$1,000 for taking part in the first World Series, in fact, because Pittsburgh owner Barney Dreyfuss agreed to share his gate receipts with his players, those players got paid hundreds of dollars more than those from the victorious Boston Americans.²⁴ The cancellation of the World Series in 1904 is a stronger example of a true labor issue. While it is unclear if players protested over Brush's actions, these players lost an opportunity to win a championship, which in the eyes of most people, is the ultimate goal in a sports league.

One thing fans in the early 20th century would take for granted today is just how close they were to the action. Games were much more intimate in the early 1900s than now. With that level of intimacy comes fan-player interactions. In the 2010s, other than during pre-game events, which are for the fans, it is rare to see players actively attempt to interact with fans. One of the few on-field interactions in contemporary baseball occurs when players throw souvenir balls into the stands after the third out is reached, and that is only if they feel like doing so. This was certainly not the dynamic seen in the early 20th century. At the time, it was commonplace for fans to yell expletives at players and for the players to yell back. That might have offended people then, and it certainly

²² John Thorn, *Baseball in the Garden of Eden: The Secret History of the Early Game* (New York: Simon & Schuster, 2011), 254.

²³ Spalding, *Americas National Game*, 338.

²⁴ Shelley Anderson, "Cy Young Found Old Magic as Boston Rallied to Win Title," *Pittsburgh Post-Gazette*, June 3, 2003, Sports sec., June 3, 2003, accessed November 30, 2018, <http://old.post-gazette.com/pirates/20030603series0603p5.asp>.

does now. Regardless, that was just the way it was. However, one incident is particularly infamous.

Ty Cobb is undeniably one of baseball's greatest to ever play the game. Despite his skill, he is an extremely controversial figure. There are many stories about Cobb that portray him as a racist, or to many, the most racist ballplayer in history. Many of those allegations are either completely false, or sensationalized. Despite this, most people who have any idea about Ty Cobb see him as this awful person. The controversy of Ty Cobb is significant in baseball's history because, as Ken Burns described him in his documentary series *Baseball*, he would then be "an embarrassment to the game."²⁵ Careful skepticism justifies not demonizing Cobb over the issue of race, however, the incident that he deserves infamy for occurred in 1912. On May 15 of that year, at a game between Cobb's Detroit Tigers and the New York Highlanders, the visiting Tigers were subject to abuse from heckling fans near the Detroit bench. As this was a road game for the Tigers, this was, to a certain extent, to be accepted. By the fourth inning of the game, Cobb decided he had enough of the fans' antics and promptly beat the fan. The *New York Times* described the event the following day: "Everything was very pleasant at the Detroit-Yankee game on the Hilltop yesterday until Ty Cobb johnnykilbanned a spectator right on the place where he talks, started the claret, and stopped the flow of profane and vulgar words...what they have been saying...has no place in a family newspaper or even one that circulates in barber shops only."²⁶

In the ensuing days, two major things happened. First, and more importantly to Cobb's personal legacy, news surfaced that the man he beat, Claude Lucker, was crippled before suffering from Cobb's beating. Through his friend Tom Foley, via the *New York Times*, Lucker tells the story that he had lost one hand and three fingers from the other as a pressman, and that when Cobb "spiked [him] in the left leg, and kicked [him] in the side," a fan yelled at Cobb, "'Don't kick him, he has no hands.' Cobb answered: 'I don't care if he has no

²⁵ *Baseball*, dir. Ken Burns (United States: PBS, 1994), DVD.

²⁶ "Cobb Whips Hilltop Fan for Insults," *New York Times*, May 16, 1912, accessed October 14, 2018, https://search.proquest.com/docview/97339410?ac-countid=40083&rfr_id=info:xri/sid:primo.

feet!”²⁷ It remains unclear whether Cobb realized he was beating a crippled person at first.

The other noteworthy event that came from this incident is the creation of another union. While John Montgomery Ward unsuccessfully unionized some players in the 1880s because of their contract dispute, this situation was very different: American League President Ban Johnson happened to be in attendance at the previously discussed game. He promptly suspended Cobb indefinitely for his actions. However, Cobb protested being suspended, having seen the incident as giving a fan of the other team a beating they deserved, and despite not being able to prove it was this particular fan, Cobb believed that he had said something unforgivable. In protest of his “unjust” suspension, Cobb threatened to go on strike, which was negligible because he could not play anyway; however, he received support from not only his team, other American League teams threatened to strike. At the time Lucker provided his side of the story between him and Cobb, the Chicago White Sox reported that they would not go on strike, but that they stand behind Cobb and want a peaceful resolution.²⁸ The Tigers were not so diplomatic: the entire team refused to play their game on May 18th, and when the owners found a few “misfit” players to replace them for the game against the Philadelphia Athletics, they were defeated 24-2.²⁹ While the issue at hand is resolved in a reasonably short amount of time, and fairly peacefully, players were still angry. In the wake of what the players had deemed an injustice, Ty Cobb, Christy Mathewson, Jeff Sweeney, and Mickey Doolin, under the leadership of Dave Fultz, formed the Fraternity of Professional Baseball Players of America, commonly shortened to “Baseball

²⁷ “No Strike, Says Callahan: White Sox Manager Sympathizes with Cobb, but Talks Peace.,” *New York Times*, May 19, 1912, accessed November 30, 2018, https://search.proquest.com/docview/97304286?accountid=40083&rfr_id=info:xri/sid:primo.

²⁸ “No Strike, Says Callahan.”

²⁹ “Detroit Team out on Strike,” *New York Times*, May 19, 1912, accessed November 30, 2018, <https://search.proquest.com/docview/97276455/pageview-PDF/85D517868EF642B7PQ/1?accountid=40083>. See also, Ross E. Davies, “A Celebration of Baseball Unionism,” *NYU Journal of Legislation and Public Policy* 16 (2013): 328, accessed November 30, 2018, www.nyuylpp.org/wp-content/uploads/2013/07/Celebration-of-Baseball-Unionism-16nyuylpp317.pdf.

Players' Fraternity."³⁰ This union lives longer than previous ones, although, it will crumble with time.

Previously, it was stated that the Players League was not the only challenge to the National League's superiority, and that three leagues would challenge it, the third of which, the Continental League, while historically significant, never played a season. The American League was the first of the three. Not only was it successful in challenging National League authority, by 1913, the American League attained equal status, and may have had better talent than the National League. The second challenger, and the most important in setting up baseball's labor relations, in the end, is the Federal League. The Federal League was created by John T. Powers, who dreamt of running his own major league that would challenge the supremacy of the National and American Leagues. He consolidated his defunct Columbian League and the United States League, received investment help from owners, and, in 1913, they created a six team league based in Chicago, Cleveland, Pittsburgh, Indianapolis, St. Louis, and Covington, Kentucky, which is part of the Cincinnati market.³¹

While Powers intended on subverting Organized Baseball, the league certainly did not begin that way. The American League and Players League each filled their rosters with players essentially stolen from their original teams. The Federal League did no such thing in 1913, and instead, according to Nathaniel Grow, "the Federal League primarily recruited minor league journeymen and local semipro players to fill out its rosters. To attract and maintain fan interest, the new league hired aging, former major league stars to serve as team managers."³²

Following the establishment of the league, the Federal League had a little bit of a lackluster season, due largely to the lack of name recognition. Regardless of this problem, the Federal League aggressively pursued a 1914 season, making two important moves to make it happen. First, the owners of the six franchises dismissed Powers as the league president, and placed Jim Gilmore

³⁰ Davies, "A Celebration of Baseball Unionism," 328.

³¹ Nathaniel Grow, *Baseball on Trial: The Origin of Baseball's Antitrust Exemption*, (Urbana, IL: University of Illinois Press, 2014), 5-6.

³² Grow, 6.

at the top. Powers proved to be incapable of keeping the league prominent; Gilmore was a stronger candidate for dealing with the press, and was seen as much more convincing.³³ Second, under Gilmore, the league set out to sign more prominent players than those already on their teams. This is what Powers originally set out to do, however, he had not done so in time to stay in charge of the league. With the new owners ready to work behind Jim Gilmore, after establishing markets in a few new cities (notably New York and Baltimore) the league began to raid the rosters of major league teams. This is not very different than the plan of the American League shortly after its birth from a minor league. Despite the glaring similarities, the major leagues ignored the Federal League, except when they invaded their rosters, and they did so by convincing players that their contracts were invalid.

The main reasoning the Federal League was able to use in their marketing to players that their contracts were invalid is that they legally lack reciprocity.³⁴ The idea was that in order for a contract to be valid, it must require both parties to do equal work or provide equal services. Otherwise, a contract would be legally unenforceable. For example, a valid contract would be one where one person agrees to perform some task, say, pitch a baseball for nine innings and take a turn at bat every ninth time the team is up, in exchange for the value of that person's labor over the course of however many games the parties agree upon in a season, for however many seasons they agree to do it for. In this era, contracts were overwhelmingly one year deals that paid whatever the owners could get away with, until they were challenged. That is not the reason why the contracts lack reciprocity. It is the controversial reserve clause, as well as the "ten-day release option" that the Federal League owners openly challenge. They argue that they lack reciprocity because a player lacks the ability to bargain for better pay on the simple fact that if teams and players do not reach an agreement, the team just has to exercise the reserve clause, and since every contract has a reserve clause in it, they are effectively stuck on the same team for the rest

³³ Grow, 6.

³⁴ Grow uses the word "reciprocity" in his book. I am not so sure that reciprocity is the proper word to use in today's legal system. It seems as if that would have been the proper term in the context of that time.

of their playing career.³⁵ Thus, a player is stuck with a contract that does not favor the value of their labor because the owners do not have to bargain with the players. One could argue that in fact, a player is not stuck in the bad contract because they can find another field to work in, and that is technically true. However, in the case of baseball, these players are highly skilled in their field, and should be sought after by those that can afford their value, which, those teams certainly can. Teams just chose not to compete for player services in this time period because that keeps costs lower.

Player contracts also lack reciprocity because the “ten-day release option” gives teams the right to release a player with ten days of notice.³⁶ On its face, that seems like a great provision because at-will employers in at-will states can fire you for any reason at any time. That contract does not allow that to happen. The reason the Federal League claims this lacks reciprocity is that players do not have the right to exercise that option. Like the first point, technically, that is not true because players could just retire and find a new field of work. However, baseball is their profession, and in that sense, they are highly skilled laborers, therefore, they should have a legally reciprocal contract. Whether they “should” does not matter in terms of legal enforceability. If an American League or National League contract were deemed nonreciprocal, which according to the ideas purported by the Federal League, they are, it would be unenforceable. Therefore, if a player wants to join the Federal League to escape the reserve system, or just to receive better pay for essentially the same amount of labor, all they have to do is sign the new contract, and the legal system will take care of the American/National League.

As the National League had when the American League raided their rosters fifteen years earlier, the dominant force of baseball protested the upstart league taking players from their teams. Unlike the American League, however, the Federal League challenged organized baseball in court. According to the Sherman Antitrust Act of 1890, “Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the

³⁵ Grow, 8.

³⁶ Grow, 8.

several States, or with foreign nations, is...illegal.”³⁷ Gilmore and the Federal League argued that Organized Baseball formed a monopoly by not allowing players to extend their services to other leagues with the reserve clause and under the National Agreement. They developed the league with the noble cause to be more beneficial for the players, and in order to succeed, they had to attack the establishment of baseball. Grow condensed the suit into three important claims by the Federal League: “(i) that they had formed an illegal monopoly in violation of federal antitrust law, (ii) that their illegal monopoly also violated state antitrust law, and (iii) that they had conspired to injure or destroy the Federal League.”³⁸

The case was brought to Judge Kenesaw Mountain Landis in Illinois, which is significant because Landis was seen as a “trust-buster” after his famous ruling against Standard Oil in 1907, and because he was described as “an irascible, short-tempered, tyrannical despot” who was ‘more arbitrary than ... any jurist I have ever seen before or since.’” In addition, according to Grow, Landis was a baseball fan, which the Federal League did not know for sure whether it would affect the outcome of the case. Grow argued that it would possibly be beneficial because he would then understand the nuances of the game better than an impartial judge would.³⁹ This makes a lot of sense, as his theoretical expertise on the subject would lead to a better answer to the case. However, rather than giving an impartial ruling after hearing the cases, he delayed, hoping the league could settle out of court as the game was, in Landis’ opinion, “a national institution.” Therefore, this court case would be harmful to the game itself, simply for being in court⁴⁰ and not just the game that people had come to know and love. Due to this delay, the Federal League was financially incapable of maintaining itself. 1915 was its final season: numerous Federal League teams were bought out, owners were granted the ability to buy teams,

³⁷ “The Sherman Antitrust Act (1890),” The Linux Information Project (LINFO) Home Page, accessed December 1, 2018, http://www.lininfo.org/sherman_txt.html.

³⁸ Grow, *Baseball on Trial*, 65; Grow cites the document as “Bill of Complaint, Federal League of Professional Baseball Clubs v. National League of Professional Baseball Clubs, FLSP, Box 9” on page 239.

³⁹ Grow, 68.

⁴⁰ J. G. Spink, *Judge Landis and Twenty-five Years of Baseball* (New York: T. Y. Crowell, 1947), 35, accessed December 2, 2018, <https://catalog.hathitrust.org/Record/001116888>.

and player's contracts were moved to the appropriate Major League team during the offseason. The Federal League's franchises in Kansas City, Buffalo, and most notably, Baltimore, were ignored.⁴¹

The franchises in Buffalo and Kansas City ultimately suffer their own fates that do not have a significant effect on the folding of the Federal League. Since they had been ignored, however, the Baltimore Terrapins sued the National League and all their members under the same justification as Jim Gilmore earlier. By 1922, the case reached the Supreme Court, officially named *Federal Base Ball Club of Baltimore v. National League of Professional Base Ball Clubs*. This case is highly complicated because of its ruling.

The issue at hand was whether organized baseball had violated the Sherman or Clayton Acts and if Baltimore's Federal League club owners were entitled to compensation for it. Federal Baseball's lawyers argued, "The business of providing exhibitions of professional baseball, as conducted by the defendants in error and by the plaintiff in error, is interstate commerce."⁴² In a vacuum, this is a perfectly reasonable assertion because teams conduct business across state lines by playing games in different states and collecting revenue from gate receipts. Today, this is even more obvious because games are broadcasted across the country. Despite how clear that would seem today, in 1922 that was not the common understanding. Previously, Kenesaw Mountain Landis, baseball's unilateral commissioner by this time, claimed that baseball was a national institution. Therefore, it was not a business in the eyes of the Supreme Court, even though businesses are certainly institutions, potentially at the national level. The Supreme Court unanimously held that organized baseball had not violated anti-trust law because they were "purely state affairs," rather than commercial ones.⁴³ Further, even if games were seen properly as a business, the interstate commerce is incidental. The crossing of state lines is "not enough to change the character of the business...the exhibition, although made for

⁴¹ Grow, *Baseball on Trial*, 104-106.

⁴² *Federal Base Ball Club of Baltimore v. National League of Professional Base Ball Clubs*, 259 U.S. 200 (1922).

⁴³ *Federal v. National League*.

money, would not be called trade or commerce in the commonly accepted use of those words.”⁴⁴

The *Federal Baseball* ruling remains an important Supreme Court case because it gave legal precedent for Organized Baseball to maintain a legal monopoly. Today, it is ludicrous to believe that baseball is not interstate commerce due to common practices in the league, such as the selling of merchandise and broadcasting across state lines. Yet, the Supreme Court’s ruling in that case allowed baseball to control all aspects of the game. Baseball’s legal monopoly allowed the reserve system to continue, thwart all outside competition, and drive salaries down. Baseball’s anti-trust exemption was revisited, and upheld, in both *Toolson v. New York Yankees* (1953) and *Flood v. Kuhn* (1972).⁴⁵ In the latter case, Justice Harry Blackmun acknowledged that baseball’s exemption is anomalous. The Supreme Court allows Major League Baseball to maintain its exemption because of legal precedent. Federal Baseball, then, left behind a legacy of being the reason Major League Baseball breaks anti-trust law.

Baseball’s early history is not merely a story of how Organized Baseball reached the forefront of its own industry and filled the hearts of its many fans. Baseball history is story of labor issues that ultimately shape almost all aspects of how we, as a society, understand the game today. Much of baseball’s history, as many fans understand it, is better thought of as folklore. When baseball’s history is studied more closely, it becomes clear that it is a labor history that undergirds this folklore. That does not mean that baseball’s early folklore is irrelevant to its labor history. Instead, it is important to understand how the two are interrelated. Both aspects shape baseball for the next century, and beyond, because kids will always want to hit like Babe Ruth, or play hard like Ty Cobb. Likewise, they ought to know the struggle that earlier players and owners faced in an attempt to play the game they love as a p.”⁴⁶ Evidently, a whole lot more.

⁴⁴ *Federal v. National League*.

⁴⁵ *Toolson v. New York Yankees* 346 U.S. 356 (1953); *Flood v. Kuhn* 407 U.S. 258 (1972).

⁴⁶ Rhonda McMillion, “Washington Report: Stronger Voice for Victims: Reauthorized Violence Against Women Act Expands Scope of Programs.” *ABA Journal*, Vol. 86, no. 12 (2000): 98.