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## Labor Relations in Baseball

### Labor War and Peace in the National Pastime

The truth is that from the beginning of baseball's professional era . . . players were always keenly interested in such unheroic matters as salaries and working conditions.

—William B. Gould, *Bargaining with Baseball*

Baseball has captured the imaginations of many generations. People remember their first ballgame and when they fell in love with the game. I fell in love with baseball watching Game 1 of the 1988 World Series; Kirk Gibson's walk-off home run is still as vivid in my mind now as it was when I saw it on television in Australia twenty-five years ago. Moreover, many baseball fans clearly remember the statistics of their favorite players. Indeed, in no other sport around the world are statistics so cherished, debated, and argued over. This was true even before the rise of "moneyball" and sabermetrics. People know that Barry Bonds hit 762 home runs, Hank Aaron hit 755, and Babe Ruth hit 714. Likewise, most fans know that Pete Rose had 4,256 hits, while Carl Ripken Jr. played in 2,632 consecutive games. However, for the players, the statistic they know is the small chance, maybe one in seventy, that a person who signs a professional contract will make it to "The Show," and the even smaller chance of having a long career.

Another set of numbers the majority of baseball fans might not care to remember is that there have been six strikes and three lockouts in Major League Baseball (MLB) history. However, apart from a one-day strike in 1912 by players from the Detroit Tigers, there was labor "peace" until 1972. Of course, even with the absence of strikes and lockouts

during this period, relations between players and management were far from harmonious. From 1972 until 1995 there was constant conflict between the players and the owners, with numerous strikes and lockouts. However, unlike in the NBA, NFL, and NHL, since 1995 there has been relative labor harmony.

The decades of labor conflict were due in part to the Major League Baseball Players Association (MLBPA) gaining strength in the 1960s, beginning with the appointment of Marvin Miller as the union's executive director. It was also due in part to the owners trying to regain their lost strength. Following the appointment of Miller, the MLBPA became the strongest union/player association in American professional sports. It was this strength that allowed it to gain just rewards for the players after decades of exploitation. While the strength of the association led to industrial conflict, it is because of this strength that there ended up being labor peace.

### The Rise and Fall of Various Baseball Players Associations

For a long time baseball players were exploited by owners, despite owners' constantly arguing that they were in financial hardship. This was true even as far back as 1881, when Chicago White Stockings owner Albert Spalding derided the amount players were earning, saying, "Salaries must come down or bankruptcy stares every team in the face." In view of Spalding's rhetoric and the threat it implied, it was not surprising that the players would attempt to form a collective voice and improve their standing. Eighteen eighty-five witnessed the first players' association in baseball and the first in professional sports. The National Brotherhood of Baseball Players was founded by a number of players, but it was John Montgomery Ward who was the driving force. In addition to being an exceptional player, Ward was also a lawyer. The Brotherhood's aims were to eliminate the reserve clause and increase salaries from a maximum amount of \$2,000.

The reserve clause tied a player to a club from his first contract. Contracts were generally only for one year, which provided no long-term security to the players, and the only way a player could play for a different club was if his current team sold the player to another team. In later years, the reserve clause was amended so that, although his contract still tied a player to the team, it was only for an additional year, on the

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same terms as the existing contract. Ward argued that the reserve clause meant that players were property; something to be owned and bought and sold by a few wealthy individuals. He stated, "Like a fugitive-slave law, the reserve-rule denies him a harbor or a livelihood, and carries him back, bound and shackled, to the club from which he attempted to escape."<sup>2</sup> Rather than believe the owners would continually agree to the demands of the players, the Brotherhood formed its own league, the Players League.

The Players League had a modicum of success in its only year of existence. By one estimate, it outdrew the National League in total attendance. However, it encountered intense competition from the National League and the American Association. The National League owners were willing to do almost everything in their power to undermine the Players League. This included Spalding offering Michael "King" Kelly the player-manager of the Boston Reds a \$10,000 bribe to abandon the Players League and rejoin the National League. The money losses incurred by the Players League forced its financial backers to withdraw support. This led to the Players League folding on November 22, 1890, and a number of players, including Ward, returning to the National League or the American Association. In the 1880s, largely due to the formation of the Brotherhood, player salaries increased by approximately 30 percent. However, the owners also benefited as their profits increased as much as 300 percent. By the end of the 1890s, the maximum salary was \$2,500, but it had stagnated at that level for the last decade. Only star players received more, but their salaries were not entered into a club's official documents.<sup>3</sup>

Nineteen hundred witnessed the next attempt to form a strong players' association; the Players Protective Association. The association sought higher wages and better working conditions for the players. Like the majority of the labor movement at that time, it was not that successful. Among its "achievements" were agreeing to the National League's demands that it expel any of its members who signed with an American League club. However, players largely ignored the Protective Association in determining whether to join an American League club, and it ceased to exist in 1903, with the owners still having virtually unchecked power. In his autobiography, Ty Cobb explained the power the owners had over the players in regard to the reserve clause. He stated, "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 . . . 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."<sup>4</sup> For the next ten years the players had no collective group to voice their concerns. Nonetheless, this did not mean that the players did not try to overcome the owners' power. Indeed, in 1912 the first strike in professional baseball occurred, and it was due to Ty Cobb.

After Cobb attacked a fan in response to constant verbal abuse at a game in New York, American League president Ban Johnson suspended Cobb for ten games. While it is fair to say that Cobb was not a popular player, his Detroit Tigers teammates conducted a wildcat strike and refused to play against the Philadelphia A's on May 18, a Saturday. The Tigers quickly rounded up replacement players, who proceeded to lose 24-2. There was no game scheduled on Sunday, and Johnson canceled Monday's game. He also fined the striking players \$100 each and vowed to ban them from baseball if the strike continued. Not surprisingly given this demand, the players backed down. This was in part because Cobb also wanted his teammates to go back to work. In response, Johnson reduced the players' fines to \$50 each and promised that so-called special policeman would be employed to maintain order at ballparks.<sup>5</sup> While it is arguable whether the strike was a success, what is beyond dispute is that it had the effect of forging solidarity. This led to the formation of the Fraternity of Professional Baseball Players of America, in 1912.

As had its predecessors, the Fraternity demanded better wages and working conditions for its members. However, it was a very cautious organization and tried to distance itself from the "radicalism" of the Brotherhood of Professional Baseball Players. It viewed itself as an association rather than a union, and simply asked that "every reasonable obligation of the player's contract is lived up to by both contracting parties." Aiding the Fraternity was the formation of the Federal League. More than 240 players jumped from the American and National Leagues to the Federal League despite the threat of being blacklisted. In an attempt to prevent even more players from joining the Federal League, the National Commission, baseball's governing body, recognized the Fraternity in 1914, agreeing to provide players' home and away uniforms and grant unconditional releases to ten-year veterans who requested them, and promising not to discriminate against any Fraternity members. These concessions, however, were more in response to the threat of the Federal League than the strength of the Fraternity. Membership in the Fraternity increased to 1,100, with the players paying annual dues of \$18, but a large percentage

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of those who joined were minor league players. While the Federal League only lasted two years, the threat of established players jumping to it led to gains in the average player salary, which almost doubled to \$7,300. However, following the failure of the Federal League, which limited the options for players, and an unwise threat in 1917 to implement a strike in support of minor leaguers, which was not supported by the majority of major leaguers, the National Commission no longer recognized the Fraternity. American entry into World War I doomed this latest attempt to establish a collective voice for the players and the Fraternity soon ceased to exist. Nonetheless, one of the most important lessons learned by future baseball players' associations was not to include minor leaguers in its ranks, as there was little natural solidarity between major league and minor league players.<sup>6</sup>

The failure of the Fraternity was the last major attempt at solidarity among baseball players until the mid-1940s. The Association of Professional Ballplayers did form in 1924, but it was only a charitable group. In 1918, players from the Boston Red Sox and Chicago Cubs refused to play game 5 of the World Series until the leagues guaranteed the Series' winners \$1,500 per player and the losers \$1,000. The game was delayed for one hour until the owners agreed to the players' demands and promised no retaliation against the players. However, following the World Series the victorious Red Sox players only received just over \$1,000 each, while the Cubs players received approximately \$670 apiece. In addition, the players were fined and the Red Sox players did not receive any mementoes to commemorate their victory.<sup>7</sup> As there was no union or player association to support the players, there was little they could do in response.

In 1922, a court ruling was issued that had a major effect on players for the next fifty-plus years; namely, the Supreme Court ruled that the Sherman Antitrust Act did not apply to baseball. The Sherman Act prohibits "every contract, combination . . . or conspiracy, in restraint of trade or commerce among the several States." The crucial requirement is that the anticompetitive practices must occur in more than one state. As Stuart Banner notes in *Baseball Trust*, the Court held that baseball was not interstate commerce but a largely local activity that only had minor interstate impact. Its ruling stated, "The business is giving exhibitions of baseball, which are purely state affairs." While it is often assumed that the ruling allowed baseball an antitrust exemption, this was not the case. Baseball's antitrust exemption actually was not enunciated until the 1953 Supreme Court case *Toole v. New York*

*Yankees*. In 1922, the judges simply ruled that baseball was not interstate commerce. The amount spent by the American and National Leagues on court cases over the years demonstrates the importance to the owners of the Sherman Act's not applying to baseball. Between 1914 and 1922, it is estimated, the two leagues spent approximately 5 percent of their income battling antitrust accusations.<sup>8</sup> Thus, in the 1920s, 1930s, and into the 1940s, players had no collective voice, were the "property" of their clubs, and were subjected to artificially curtailed wages. This was in contrast to "normal" employees in the United States as a wave of unionization spread across many industries, resulting in better wages and working conditions. Considering the situation, it was almost inevitable that in baseball another attempt for a collective voice would emerge.

Before this happened, another event occurred that was beneficial to some players, namely, the formation of the Mexican League. The Mexican League was a blessing to African American players, as it often engaged in bidding wars with the Negro Leagues; this, combined with the shortage of players during World War II, led to higher salaries for all players. For example, in 1942 Satchel Paige was allegedly the second-highest paid baseball player in America, while Buck Leonard saw his salary double for the 1942 season. African American players received, on average, an official \$400-\$500 a month, although many salaries were augmented by unofficial payments by owners.

Beginning in 1946, the Mexican League attempted to raid players from MLB. Twenty-three major leaguers jumped to the Mexican League, with others using interest from the Mexicans to get large increases from their MLB clubs. Eventually, approximately 20 percent of Mexican League rosters were compromised of American talent. However, the allure of the Mexican League did not last. MLB commissioner Happy Chandler imposed a five-year ban on any major league players who joined the Mexican League, and three-year bans for non-major league players. This, combined with the Mexican League's enduring financial difficulties, stopped the flow of talent going south of the border. By 1947, only a few former major league players were still with Mexican League teams; there were none in 1948.

Despite the decline of the rival league, MLB owners refused to lift the sanctions. This led one player, Danny Gardella, to sue MLB on antitrust grounds. Gardella, a fringe New York Giants player, joined the rival league in 1946. However, the collapse of the league led to him to seek reemployment in America. He was unable to do so due to the ban imposed by Chandler. In 1947, Gardella sued MLB and the Giants,

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The league attempted to raid players who had moved to the Mexican League, and Americans to get large increases in salaries, approximately 20 percent of Mexican American talent. However, the fact that MLB commissioner Happy Chandler by major league players who had been banned for non-major league players in the League's enduring financial crisis south of the border. By 1947, the players were still with Mexican League players.

In the Mexican League, MLB owners refused to sue any Gardella, to sue MLB on behalf of the New York Giants player, joined the fact that the league led to him being unable to do so due to the fact that Gardella sued MLB and the Giants,

seeking \$300,000 in damages. The action was initially unsuccessful, as a federal court judge dismissed the lawsuit, citing the 1922 ruling that baseball was not interstate commerce and as such not subject to antitrust laws. However, Gardella appealed the decision, and in February 1949, in a 2-1 ruling, the federal appeals court ordered a full retrial. Fearful that the new trial could result in baseball being bound by the Sherman Act, in June 1949 Chandler rescinded the ban on players who had joined the Mexican League. MLB also offered to settle out of court with Gardella. Faced with the prospect of another costly trial that he was not guaranteed to win, Gardella eventually accepted MLB's offer of \$60,000 in damages and a position with the St Louis Cardinals. Gardella joined the Cardinals for the 1950 season and had one at bat before being demoted to the minors. He later regretted his decision: "They gave me \$60,000, but my lawyer got 31 of it. . . . I was interested in carrying through with the suit, but you sell for money because it's real. One has to eat. A principle is invisible no matter how precious it is to you. I feel I sold a principle down the river. I feel the way many of us do when we sell out." The chance to bind baseball to the Sherman Act, which would have benefited all players, was gone. However, at the same time that the Mexican League was attempting to raid players, another attempt at player solidarity was occurring in America.

In 1945 and 1946, Robert Murphy, a lawyer from Boston, secretly sought support for forming a baseball union. Baseball attendance was at record levels, but player salaries had stagnated. Murphy's efforts came to fruition when the American Baseball Guild was founded, on April 17, 1946. Among the Guild's demands were a minimum salary of \$7,500, an arbitration system for contract disputes, compensation of up to 50 percent of the price if a player were sold to another team, the elimination of the reserve clause and its replacement by long-term contracts in which the financial terms were renewable every year, and benefits related to spring training, insurance, and pensions. Another demand was that player contracts no longer be one-sided.<sup>10</sup> Quite simply, the Guild wanted to overhaul the system so that it was more equitable for the players.

Murphy decided that Pittsburgh, a strong union city, would be the perfect place to kick-start the Guild into life. A large majority of Pittsburgh Pirates players wanted the Guild to represent them in collective bargaining. They were willing to strike in June if the Pirates' management did not agree to this. Murphy set a deadline of June 5 for the Pirates to accept the Guild as representing the players. However, on the afternoon of June 5 Pirates management claimed they needed more

time to study the request. This angered the players, and they wanted to strike immediately. However, following a meeting with Pirates management, Murphy agreed to delay a strike vote by forty-eight hours. He later admitted that this was a major mistake, for it allowed both management and the National League enough time to metaphorically "work over" the players and employ replacement players in the event a strike went ahead. While a majority of players did vote to strike, by a vote of twenty to sixteen, this was less than the two-thirds needed under strike and election procedures established by the Pennsylvania Labor Relations Board.

The aftermath of the failure in Pittsburgh led to Boston Braves players deciding not to strike. Nonetheless, the owners were worried that the Guild could be successful, which in turn would threaten their profits and control of the game. This led them to hold a number of meetings with player representatives from various clubs. Following the meetings, in late July a series of recommendations was announced: a \$5,500 minimum salary, spring training per diem of \$25 a week, which was informally called Murphy Money, and a pension to be funded by the owners with the players also contributing. The pension would be available to all players over fifty who played at least five years in the major leagues. The minimum amount the pension paid was set at \$50 per year. Player contributions were \$45.45 for the first year, \$90.90 the next, up to \$454.75 in the tenth year. This resulted in a total player contribution of \$2,500. Of course, the average length of a major league player's career was less than five years, and fewer than 10 percent had careers that lasted ten or more years. Yet this did not seem to concern the players. These recommendations pacified the players, and the death knell for the Guild was sounded in August 1946. Pittsburgh players voted fifteen to three, with more than twelve abstaining, against certifying the Guild as their collective bargaining agent. Once the threat from the Guild vanished, the owners and leagues demonstrated that what they could give, they could take away. The minimum salary was reduced to \$5,000. As Murphy so eloquently and prophetically stated at the time, "The new generation of intelligent, nonsubservient players [would] recognize that their greatest weapon is the strike, and will not hesitate to employ it." Quite simply, "The players have been offered an apple, but they could have had an orchard."<sup>11</sup>

The failure of the Guild led to another long period in which the players had no collective voice. Nevertheless, this did not mean that some players did not consider striking. In this instance, the issue was Jackie Robinson. As is well known, Jackie Robinson was the first Afri-

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can American to play in the major leagues, in 1947 with the Brooklyn Dodgers. Unfortunately, the prospect of African Americans as teammates and opponents was not palatable to a number of players, whether due to outright racism or fear of losing their places to more talented players who just happened to have a different skin color. A number of Dodgers players, led by player representative Dixie Walker, signed a petition demanding that no African Americans play for the team. In addition, Walker allegedly attempted to organize a wildcat strike across the National League on Opening Day, to begin when Robinson stepped onto the field. Walker also asked to be traded from the Dodgers. (This might have occurred if fellow Dodger Pete Reiser was not constantly injured.) The strike failed to materialize when Dodger management came down hard on its dissenting players. At the end of the season, Walker stated that Robinson was a fine teammate and a gentleman.

St. Louis Cardinals players are also alleged to have planned a sit-down strike for May 6, when Robinson and the Dodgers came to town for the first time. Whether in fact they did plan to strike has never been determined, but the threat of lifetime bans ensured that any players would not publicly protest against Jackie Robinson via strike action. National League president Ford Frick wrote to the Cardinals, stating, "If you do strike, you will be suspended from the League. You will find that you will be outcasts. I do not care if half the league strikes. Those who do will encounter quick retribution." Eventually, more African Americans joined Jackie Robinson in the majors and racial integration became the norm rather than the exception, although it was not until the 1970s that non-superstar African Americans entered the big leagues in any great numbers. More recently, however, the overall number of African Americans in the major leagues has declined greatly, in what is a sad turn of events.<sup>12</sup>

The next attempt at achieving a collective voice and collective action was more successful and evolved into an extremely profitable endeavor, namely, the formation of the Major League Baseball Players Association in 1954.

### The Birth of the MLBPA

The genesis of the Major League Baseball Players Association was inspired by an unfortunate event. Ernie Bonham, who had played in the majors for ten years, died in 1949. He was only thirty-six years old.

As Lee Lowenfish notes in *The Imperfect Diamond*, the amount of money in the pension fund was inadequate to pay his widow. This in turn led to the baseball commissioner deliberately selling the broadcast rights to the World Series and the All-Star Game at below their market value. Since the money from these contracts funded the players' pensions, they were understandably unhappy both with the shortfall and the discounted sale of the broadcast rights, and requested a detailed analysis of the pension. However, by 1953 the commissioner still had not provided them with one. This led player representatives Allie Reynolds and Ralph Kiner to ask to speak at the annual owners' meeting. Kiner, basically the only star player on the Pittsburgh Pirates, admitted that he became the team representative "almost by default, since I was the only guy who had the stature to stand up to the owners. . . . There was a general feeling that they would ship you out if you were disruptive . . . and even though I didn't have much education, at least I had enough not to be intimidated by owners."

Not only the owners but some former players as well opposed the formation of a players' association. Indeed, Reynolds tried to distance his and Kiner's efforts from unionism, stating that "I have nothing against unions in industry. But if I had any suspicion that we in baseball were moving towards a union, I would not have anything to do with the enterprise." Nonetheless, Reynolds and Kiner sought a rise in the minimum wage, an analysis of the pension system, and permission for players who earned less than \$10,000 to play winter ball in Latin America. The owners did not look favorably on the players' requests. In response, the players hired a lawyer, Jonas Norman Lewis, to act as liaison between them and the owners. The move was greeted with hostility by the owners, who stated that they did not want so-called outsiders becoming involved in baseball labor relations.

During this period, the Supreme Court, in *Toolson v. New York Yankees*, upheld the major leagues' monopoly, stating unequivocally that baseball enjoyed antitrust exemption. This meant that the reserve clause applied to each and every player's contract. The decision reaffirmed the owners belief that they could control the game as they pleased. Although they invited player representatives to the owners' meeting in December 1953 in Atlanta, players' liaison Jonas Norman Lewis was not invited. This upset the players. Kiner stated that it "was un-American, not [to] be allowed to have your lawyer there. [We] were competitive by nature and were angry . . . but we were in over our heads. After all, we were ballplayers not businessmen."

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Whether the owners truly would have been hostile to Lewis is arguable, in view of the fact that his law firm had previously represented New York Giants management and he was the coauthor of a 1945 article in the *New York Law Journal* that characterized a player's salary of \$5,000 as enviable. Nonetheless, in response to their representative's exclusion, the players' representatives held their own meeting in Atlanta in December 1953, at which they formed the Major League Baseball Players Association (MLBPA), with its charter finalized in the spring of 1954. However, following the formation of the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), it refused to allow the MLBPA to join. The federation's leadership believed that the players were not cohesive and would never be able to engage in the collective action that was a necessary part of being an AFL-CIO member.<sup>13</sup> While the AFL-CIO was not entirely incorrect in its assessment during the initial years of the MLBPA, in time its pronouncement proved hollow, as the MLBPA became not just the strongest association/union in sports, but one of the strongest in the United States.

Due to the hostility encountered by the MLBPA and Lewis, the first gains made by the union were no more than modest in nature, and grudgingly yielded. For instance, after negotiating a contract with Gillette in 1956 for the broadcast rights to the World Series and All-Star Game for a price of \$3.25 million per year, the owners increased the players' pension fund, yielding 60 percent of the broadcast revenues as well as 60 percent of the revenue from the All-Star Game. However, rather than cut into the owners' share of the latter, between 1959 and 1962 MLB held a second All-Star Game, to cover the pension fund contribution. Minimum salary was increased to \$6,000, and the players received life, hospital, and disability insurance. Considering these gains, one might think that the players would have been at least somewhat pleased by the performance of Lewis. Further, in 1958 the minimum salary was increased again, to \$7,000. However, a more "radical" proposal by Lewis that would have guaranteed players 20 percent of the teams' revenues and 25 percent of national television revenue infuriated the owners. Rather than stand united, the players withered in the face of owner hostility, claiming that they had not been consulted about the more radical agenda. (Failing to consult with the rank and file is not a good strategy for a union at any time, let alone in the first few years of its existence.) Confronted by the rumor that Lewis wanted to strike in support of minor league players, union members decided to seek a new representative. It must be noted that the lack of a good relationship

between the players and Lewis was, at the very least, partly Lewis's fault as he did not make an effort to get to know the players. In contrast, once he became the leader of the MLBPA, Marvin Miller was the exact opposite, and this had a large bearing on the support he received. In 1959, Judge Robert C. Cannon became the MLBPA's legal counsel.<sup>14</sup>

Quite simply, Cannon was the wrong choice for the MLBPA. From the start, he tried to appease the owners. He expressed the view that "if the Association, in the future, proceeds cautiously and carefully many more deserving benefits will accrue to the player." Under Cannon's watch, he sought harmony between management and labor, claiming that he did not want to "jeopardize the fine relationship existing between the players and the club owners." He was "satisfied that the Commissioner and the Presidents of the respective leagues sit as quasi-judicial officers and it is presumed that they will accord fair treatment to both the player and the club owner,"<sup>15</sup> which must have surprised the players. Minimum salary remained the same, Cannon allowed the owners to withdraw money from the pension fund, to which they had over-contributed in the previous year, and he voiced no objections when the owners made changes to the strike zone and pitching mound in 1963 and increased the schedule from 154 games to 162, without consulting with the players. Although Cannon made the rather absurd claim that the players "have it so good we don't know what to ask for next," the reality was quite different. Former player Steve Boros clearly summed up the situation: "Players had no leverage. . . . They were taken advantage of, but nothing to do. There were lots of horror stories, distrust, and anger, but we had no weapons."<sup>16</sup> This state of affairs led the players to seek someone who could revitalize the MLBPA. It led them to Marvin Miller.

### The MLBPA under Miller

Before accepting the position of Executive Director of the Major League Baseball Players Association, Marvin Miller had been an official of the United Steelworkers, whose ideology could be summed up with the traditional union phrase: us versus them. Miller was happy to work with baseball owners and officials, but at his core he believed that employers would never willingly give good wages and working conditions to employees. Thus, in baseball and in society as a whole, employees such as the players would have to be united and fight for their fair share of gains.

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very least, partly Lewis's fault now the players. In contrast, Marvin Miller was the exact opposite of the support he received. In 1963 he was the MLBPA's legal counsel.<sup>14</sup> He was the obvious choice for the MLBPA. He expressed the view that the union should proceed cautiously and carefully to protect the player. Under the previous management, the relationship between management and labor, "the fine relationship exists." He was "satisfied that the respective leagues sit as quasi partners which will accord fair treatment which must have surprised the same, Cannon allowed the union fund, to which they had previously voiced no objections when they were on the mound in 1963 and 1962, without consulting the players on the rather absurd claim that they should know what to ask for next," the late Steve Boros clearly summed up the situation. They were taken advantage of by the owners, distrust, and the state of affairs led the players to elect Miller to the MLBPA. It led them to Marvin

### Miller

Director of the Major League Baseball had been an official of the union. He was summed up with the traitor. Miller was happy to work with the owners. He believed that employees and working conditions to be improved as a whole, employees such as players should get their fair share of gains.

This ideology served the players well. However, almost bizarrely, despite Cannon's performance as the players' legal counsel he came very close to becoming the executive director of the union. It was only because he made a series of last-minute demands that the player representatives turned to Miller, whom they had initially rejected.

Campaigning for the directorship, Miller made an effort to gather support by meeting with the players in various cities during spring training. His efforts not only sowed the seed of solidarity which would serve the players well, but resulted in a resounding endorsement of his candidacy from the majority of teams, as the players voted 489-136 to elect him to head the MLBPA. The "no" votes came overwhelmingly from a few teams, such as the San Francisco Giants, who voted 27-0 against. As a long-time Dodgers fan, he found it amusing that the Giants players responded negatively to him initially.<sup>17</sup>

The election of Miller was greeted by a wave of negativity from the media. At the time, sporting journalists almost always sided (and in many cases still do) with management in any labor dispute. Indeed, they were basically the mouthpieces for owners. The thought that the MLBPA would now be led by a former powerful union official had them worried. *Atlanta Journal* sports editor Furman Bisher wrote that "professional baseball players are going to have to decide if they are common laborers or professional men." He went on to claim that "I cannot see the major league baseball player demeaning himself to the status of a unionized laborer." Likewise, the owners were far from happy that Miller had been elected. They had agreed to pay the director's salary under the assumption that Cannon would fill the position, thereby in effect making him their employee, but with Miller now in charge, they wavered on their commitment. That was fine with Miller, who proposed that instead the players voluntarily pay yearly union dues of \$344 apiece. The owners, assuming that a large number of players would choose not to contribute, agreed to the proposal. To their surprise, the overwhelming majority of players paid their dues, and for the first time the MLBPA was on the path to sound financial footing.<sup>16</sup>

Under Miller's leadership, the MLBPA enjoyed early successes. The association signed a licensing agreement with Coca-Cola for \$60,000 in 1966, granting the company rights to use players' pictures in its advertising. The deal paved the way to a much larger payday for the players in 1968. For years, the card manufacturer Topps had signed contracts with individual players by which, in return for a fee, the company could sell a card bearing the likeness of the player. After a series of negotiations,

during which Miller told players to abstain from signing further contracts with Topps, the company agreed to a new deal whereby players received royalties on the cards sold. This led to a significant increase in revenue for the players. As Miller noted, "Topps agreed to double the payment from \$125 to \$250 per member, and more importantly, pay 8 percent on sales up to \$4 million a year and 10 percent on sales above that figure." In the first year of the new contract, the amount earned by the players was \$320,000. The money was welcomed by a number of players, especially considering that between 1947 and 1967 the minimum wage in the major leagues only increased by \$1,000. Moreover, the average salary of a major leaguer was only \$19,000, the median being \$17,000, with 40 percent of players earning \$12,000 or lower.<sup>19</sup> However, as beneficial as the card agreement was to the players in 1968, the first Basic Agreement negotiated by Miller and the MLBPA was much more important.

The first Basic Agreement represented only a moderate windfall for the players, but it set the stage for what was to come. In addition to the implementation of uniform contracts, under the terms of the agreement the minimum salary increased from \$7,000 to \$10,000, spring training money increased to \$40 per day, in-season meal money increased \$3, to \$15 a day, players would fly first class, and a formal grievance procedure was established. The grievance procedure was controlled by the commissioner, but this was soon to change. Miller and the MLBPA achieved further success over pension reform in 1969. Under the new terms, owners increased their contribution to the players' pension fund to \$6.5 million per year, players were now eligible to join the fund after four years of service rather than the previous five, and the changes were applied retroactively back to 1947.

The successes continued with the second Basic Agreement, in 1970. The minimum salary increased to \$12,000, with a further rise to \$15,000 in 1972. Moreover, following on from the first Basic Agreement, the players achieved the right for grievance procedures (arbitration) not controlled by the commissioner.<sup>20</sup> This was to be most beneficial aspect of the agreement for all players, as it played a role in the downfall of the reserve clause.

### The Reserve Clause and Free Agency

Following the signing of the first Basic Agreement, the MLBPA and Miller began to focus on the reserve clause, as they believed that in

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addition to preventing players joining whatever team they wanted, it  
artificially reduced wages. The association's first major challenge to the  
clause was brought on behalf of Curt Flood. Flood, a star outfielder  
with the St. Louis Cardinals, was informed by the team via a phone  
call in late 1969 that he had been traded to the Philadelphia Phillies.  
After discussing the issue with the MLBPA, he decided to challenge the  
reserve clause. He wrote to baseball commissioner Bowie Kuhn, stating:

After twelve years in the Major Leagues, I do not feel I am  
a piece of property to be bought and sold irrespective of my  
wishes. I believe that any system which produces that result  
violates my basic rights as a citizen and is inconsistent with  
the laws of the United States and of the sovereign States.

It is my desire to play baseball in 1970, and I am capable  
of playing. I have received a contract offer from the Phila-  
delphia Club, but I believe I have the right to consider offers  
from other clubs before making any decisions. I, therefore,  
request that you make known to all Major League Clubs my  
feelings in this matter, and advise them of my availability  
for the 1970 season.

Sincerely Yours, Curt Flood.

In response, Kuhn wrote, "I certainly agree with you that you,  
as a human being, are not a piece of property to be bought and  
sold. . . . [However,] I cannot see its applicability to the situation at  
hand." Whether he really did not see the applicability or was just try-  
ing to protect baseball is open to debate. Following Kuhn's reply, Flood  
and the MLBPA challenged baseball's antitrust exemption and, as such,  
the reserve clause in court. In an interview, Flood categorized himself  
as a "well-paid slave." Flood lost the initial court case, but in presenting  
their defense baseball's lawyers inadvertently laid the groundwork for  
the elimination of the reserve clause by claiming that the issue between  
Flood and MLB was "only a labor dispute over a mandatory collective  
bargaining issue." In other words, the union should be able to challenge  
the reserve clause in negotiations with baseball's ownership.

Flood and the MLBPA appealed the court's decision, and on June  
18, 1972, the Supreme Court, in a decision that perplexed the major-  
ity of observers (there were opinion polls stating that the public agreed  
with Flood by a margin of eight to one), ruled against him, five to three.

The Court acknowledged that the 1922 decision that baseball was not subject to the Sherman Act had been wrongly decided, but insisted that their decision was based on adherence to principle, and that it was up to Congress, not the courts, to overturn baseball's antitrust exemption. Despite the decision in his favor, Commissioner Kuhn realized that protection for the reserve clause as it was, was coming to an end. He stated that the "players and the clubs are in the best decision to determine for themselves what the form of the reserve clause should be." As for Flood, after sitting out the 1970 season, he signed a contract with the Washington Senators in 1971. However, the layoff and his age led to deterioration of his skills, and he lasted less than one month before retiring from the game. He was also subjected to hate mail by so-called baseball fans who accused him of trying to destroy baseball. At one stage, he was receiving four or five death threats a day.<sup>21</sup> Unfortunately, Curt Flood himself did not benefit from the elimination of the reserve clause. Nonetheless, it was his principled stand that made the general public aware of the injustice the clause represented, and it inspired the MLBPA to continue to focus its efforts on making sure that players were not simply "well-paid slaves."

Ironically enough, it was a blunder by an owner that created baseball's second free agent, Jim "Catfish" Hunter, in 1974. Technically, Ken Harrelson had become baseball's first true free agent in 1967, when he was placed on irrevocable waivers by Kansas City Athletics owner Charles O. Finley after Harrelson called him a "menace to baseball." This in effect made Harrelson a free agent, with the right to negotiate with whatever team he wanted, which he exercised by signing with the Boston Red Sox.

Catfish Hunter's free agency was achieved as follows: Under the terms of his contract with the Oakland Athletics, in 1974 he was to receive one-half of his \$100,000 salary in the form of an annuity from an insurance company, paid for by the ball club. However, A's owner Charles O. Finley, realizing that the annuity would not be declarable by the club as a tax-deductible expense until several years later, refused to pay for it, which turned out to be a notoriously foolish decision. Marvin Miller later recalled, "If there is a violation of the contract, the player has the right to send notice to the club, calling attention to the violation. Hunter did that. The club has 10 days to correct the violation. If the club does that, that's the end of it. The Oakland club did not correct the violation." In response, the MLBPA claimed that the A's had breached Hunter's contract and that as a result he was a free agent.

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While it was clear that the A's had breached Hunter's contract, what was uncertain was what it entitled him to. In previous years, the commissioner would have dictated the outcome, which would have certainly meant that Hunter would not be declared a free agent. However, as noted above, in the 1970 collective bargaining agreement the owners and the MLBPA had agreed to the adoption of a grievance procedure that did not include the commissioner. Instead, a three-person panel comprised of Miller, John Gaherin, representing the owners, and Peter Seitz, as an independent arbitrator, would decide the matter. Not surprisingly, Miller sought free agency for Hunter, while Gaherin opposed it. Seitz concluded that because the breach of the contract was so significant, the contract was no longer valid and Hunter was a free agent. This led to Hunter's signing a five-year contract with the New York Yankees in 1975 worth almost \$3.5 million, an indication of the stifling effect of the reserve clause on player salaries.<sup>22</sup> However, while Hunter became a free agent his situation was not applicable to other players as he had achieved free agency only because the A's had breached his contract.

One of the immediate benefits of the Hunter decision was that owners started guaranteeing player contracts. For the first time, players knew that when they signed a contract for x number of years and dollars they would receive all the money the contract promised. Furthermore, the downfall of the reserve clause drawing near.

In 1975, Marvin Miller instructed the players to honor the last year of their contracts, but without signing new ones, that is, to play for one year under the reserve clause. Nearly twenty players almost played out their option year, including star players such as Ted Simmons and Al Downing, but by the end of the season, only Andy Messersmith and Dave McNally had not signed new contracts. This led the MLBPA to file a grievance seeking free agency on their behalf. The resolve of McNally to put the greater good above his own interests was demonstrated, as he effectively retired rather than accept a contract from the Montreal Expos that included a \$25,000 signing bonus. Likewise, the Dodgers were willing to offer Messersmith a no-trade clause. This is what Messersmith initially wanted, but the Dodgers constantly refused, which led him to seek free agency. Both players went to arbitration, where it was left up to Seitz to break the deadlock between Miller and Gaherin once again.

Seitz delayed his decision as long as possible to encourage the owners and the MLBPA to work out a compromise, but while Miller and the MLBPA were willing to negotiate, the owners were not. In a landmark decision, on December 23, 1975, Seitz ruled in favor of the

players, rendering the reserve clause invalid. All baseball players now had the right to become free agents. In a vindictive action, the owners fired Seitz almost immediately. Seitz stated, "I shall go to eternal rest wondering why the Leagues gave a negative response to my suggestion to seize the opportunity to bargain for a less rigid reserve system in advance of the date when I should have to wield the surgical knife of arbitration." The owners had decided to play hardball rather than make concessions, and it had resulted in failure. The ruling did not mean the end of baseball, as some had feared, but it was the end of the era in baseball when players were exploited without recourse, and although MLB appealed the ruling, the courts upheld Seitz's decision.

The era of the unrestricted reserve clause had come to an end. In the 1976 collective bargaining agreement, the MLBPA and the owners agreed that the reserve clause would apply to a player during his first six years with a club. After six years, the player automatically became a free agent. As we shall see below, this led to a dramatic escalation in salaries. While McNally remained retired, Messersmith signed a three-year contract with the Atlanta Braves worth \$1 million. In his final year with the Dodgers, Messersmith earned \$90,000. However, as in the case of Curt Flood, so-called fans were hostile to Messersmith and McNally. Messersmith later noted that "I came out as the dirty dog. I always had a good energy rapport with most of the fans. After that incident, the energy was 95, 100 percent negative. That was a real hard thing for me. I just wasn't ready for it."

Despite Seitz's ruling, baseball's antitrust exemption still largely holds sway. In 1998, Congress passed the Curt Flood Act, which states that baseball is covered under antitrust laws only in regard to the "employment of major league players." Baseball is not bound by antitrust law in regard to "matters relating to broadcasting, to the minor leagues, to the relationship among teams, to the location and ownership of franchises, and to the employment of umpires." The Curt Flood Act is important to major league players because, as Stuart Banner argues, "baseball's antitrust exemption meant that free agency in baseball depended entirely on the existence of a collective bargaining agreement providing for it, and . . . that they [the players] could not necessarily count on bargaining to succeed."

As former National Labor Relations Board chairman William Gould IV notes, the Curt Flood Act came about thanks to the impact of *Brown v. Pro Football* (see NFL chapter for details on the court case). The *Brown* ruling lessened the impact of antitrust laws. Players could

only take their respective leagues to court on antitrust grounds and hope to be successful if their union were defunct, decertified, or recognition of it had been withdrawn. With the favorable ruling, baseball owners lobbied Congress for the act. They were willing to give up some of their antitrust exemption, namely in regard to the employment of major league players, for the remaining antitrust exemption to be intact. They were successful insofar as the act does not totally overturn baseball's antitrust exemption.<sup>23</sup> Thus, at the time of publication (2015) the antitrust exemption is still largely in place and there are no signs that it will be overturned in the foreseeable future.

### An Era of Strikes and Lockouts under Miller's Leadership

As noted above, the Detroit Tigers conducted a one-day strike in support of Ty Cobb in 1912. The strike was not successful. Following that time, there were sixty years of labor "peace." However, with the burgeoning strength of the MLBPA it was almost inevitable that baseball would begin a series of industrial conflicts. After having almost unfettered power for a number of years, the owners would continually attempt to regain some of their lost power. For the most part, just as in their attempts to prevent free agency, they would be unsuccessful.

The first work stoppage of the Miller era occurred in 1972 and was largely over player pensions. The MLBPA wanted a 17 percent increase in the owners' contribution to the pension fund, to \$6.5 million, which was in line with inflation since the 1968 Basic Agreement. In addition, the MLBPA wanted an increase in health care premiums to cover inflation. Miller believed that the negotiations would go smoothly as the players were not asking for too much, just enough to cover the rise in inflation. However, he was mistaken. The owners decided to take a hard-line approach initially. The owners offered only an increase of \$372,000 for three years. The attitude of the owners was clearly summed up by St. Louis Cardinals owner Gussie Busch. He stated, "We're not going to give them another goddamn cent. If they want to strike—let 'em." The owners thought that Miller was pushing the players to strike. However, Miller was the one urging caution. He told the players, "You only get one chance at your first strike, and if you do not win that one you have lost the union." Indeed, Miller thought that the players would not strike. He was mistaken. In a near-unanimous decision, by a margin of

663-10 the players gave the MLBPA strike authorization. Miller was still uncertain, however, as two days before the strike deadline he proposed that the parties accept binding arbitration from a neutral observer. Furthermore, Miller thought that the MLBPA would have to back down from the proposed strike. Quite simply, he underestimated the players resolve and willingness to strike. The MLBPA board matched the players resolve and voted 47-0, with one abstention, to begin the strike. The Dodgers player representative was later removed from the post by his teammates for abstaining. On April 1, 1972, the first baseball strike since 1912 began.<sup>24</sup>

The baseball press, with a few exceptions, generally reacted with outrage against the players and Miller. One journalist stated that "Marvin Miller has struck out. He would do the game of baseball a great favor if he disappeared, got lost, or found the nearest hole and jumped into it." Unfortunately for the press, the players were united behind Miller. As the player representative for the Texas Rangers Don Mincher, stated at the time, "I don't think anyone really wants a strike. . . . But we've made no progress in our demands for a 17 per cent cost of living increase in our pension fund payments. And that's what it's all about." As the players would not be paid during the strike, Miller removed himself from the MLBPA's payroll in solidarity with the players. Such simple gestures can be crucial in industrial struggles, and it was appreciated by the players. While for the most part the players were united, the same was not true for the owners. Less than one week after the start of the strike MLB's negotiator offered to increase the amount the owners contributed by \$400,000. In addition, three teams allowed the players to work out at the club's facilities. The break in ranks led to a quick resolution and the owners and players announced the end of the strike and a new agreement on April 13. The strike would have been over sooner if the owners, after agreeing to the players' demands, did not insist games being made up with the players receiving no pay. This was not palatable to the players, and the owners decided not to push the issue. The owners agreed to increase their contributions to the pension plan by \$500,000 and to increase health care premiums. The strike cost the owners \$5.2 million in revenue, while the players lost \$600,000 in salary. Eighty-six games were lost, and arguably the biggest losers were the Boston Red Sox. Due to the lost games, some teams played 156 games, while others, including Boston, only played 153. At the end of the season, Boston trailed Detroit by a half-game in the AL East. The strike, arguably, cost Boston the pennant.<sup>25</sup>

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The success of the strike for the players continued with the signing of the latest Basic Agreement just before the start of the 1973 season. However, before the contract was agreed upon, the Player Relations Committee (PRC), which had been created in 1967 to handle negotiations with the MLBPA on behalf of the owners, ordered the teams to lock the players out and not let them report to spring training unless an agreement was reached. However, not all clubs agreed to do this and while the lockout technically lasted twelve days, it had no impact on the players, teams, fans, or in forcing the MLBPA to modify its demands. As such, this lockout is barely remembered today. In late February, a new deal was reached. The pension plan was strengthened and the minimum salary was increased to \$15,000 and by 1975 it would increase to \$16,000. In addition, spring training money rose to \$57 a week, while money for food on the road during the season increased to \$19 a day. Also, players not eligible for free agency were allowed to have their salaries decided by an arbitrator. This allowed players to have an independent arbitrator determine their salary if they could not agree to a deal with their club. Salary arbitration came about because MLB told the court in the Flood case that any differences between the leagues and the players could be settled through collective bargaining; privately, some MLB officials believed that if they granted the players salary arbitration the MLBPA would be less likely to seek free agency for players.

The issue of salary arbitration would occur frequently in future collective bargaining negotiations. Initially, the owners were only willing to allow salary arbitration in alternate years, but Miller refused to back down and eventually the owners agreed to Miller's proposal that salary arbitration occur every year. While the owners feared that salary arbitration would lead to a bonanza for the players, the reality was that most cases were settled before coming to arbitration. When a player went to arbitration there was an even split between whether the owner or player was successful, with the overall result being a less than 15 percent increase in any team's payroll on all arbitration cases.<sup>26</sup> Nonetheless, even if the player "lost" his arbitration case this usually meant that he still obtained a healthy wage rise. With the demise of the unqualified reserve clause and the potential escalation of player salaries, at the end of the 1975 season the stage was set for the next major industrial dispute in baseball; the 1976 lockout.

The major question confronting the owners and the players at the end of the 1975 season was what the future would bring, given the potential for free agency for players. The owners decided to take preemptive

action and terminate the 1973 Basic Agreement. They proposed that free agency be granted to a ten-year veteran (nine years' service time, plus the option year) only if the club was not willing to pay the player more than \$30,000 a year, with only eight teams allowed to offer a contract to a free agent. In response, the MLBA told its unsigned members not to agree to new contracts but to play out their option year so that they could become free agents at the end of the 1976 season. This covered approximately 350 players. However, Miller did not want hundreds of free agents on the market as he believed that this would drive wages down, and he was further concerned that under baseball's labor exemption there was nothing to prevent the owners colluding against the players. Miller's concern was later vindicated as collusion did occur in the mid-1980s (see below for details).

Unable to reach a compromise, the 1976 spring training began with a lockout in place. Impeding compromise was the fact that Commissioner Kuhn was totally against free agency. He stated it was "nothing more than one of those myths Miller spent so much time inventing." Interestingly, Miller noted, "A significant number of baseball writers and commentators took the occasion to reveal that they didn't know the difference between a strike and a lockout . . . by roundly condemning the players and their Association for striking!" Helping solidarity was that a number of players attended the negotiations, which were held in Florida at Miller's suggestion, one of the locations for spring training, making it easy for players to attend. After seventeen days, during which neither the owners nor the MLBPA was willing to give ground, the owners, led by Dodgers owner Walter O'Malley, called off the lockout on March 17 and spring training got underway. Miller was pleased that the lockout was over, but noted that it was increasing solidarity. He stated, "People might not know it, but the lockout was making players angrier and angrier, not weaker as the owners had hoped."<sup>27</sup>

Although the lockout ended, an agreement was yet to be reached. Eventually, after months of negotiations, on July 12 a new agreement was signed. As noted above, the reserve clause would apply to a player in his first six years with a club. After six years, the player became a free agent. In addition, the minimum salary increased to \$19,000 for the 1976 and 1977 seasons, with another rise to \$21,000 for the 1978 and 1979 seasons. Moreover, the owners' contribution to the players' pension fund increased by almost \$2 million. In response to Miller's fears that the owners would collude against the players, the agreement included a clause preventing both the owners and the MLBPA from interfering in the free

agent process. The owners had demanded the clause, as they feared that the MLBPA and/or player agents would collude and drive up salaries.

The onset of free agency led to a dramatic increase in player salaries. Good, but not great, players began receiving multiyear contracts; as Robert Burk notes, in *Much More than a Game*, "In 1977, the first year of widespread free agency, the average big league salary jumped nearly 50 percent to \$76,066. Even when adjusted for inflation, real wages registered a 39 percent rise and went up another 31 percent the next season. By 1979 the mean major league salary stood at \$113,558, more than double the pay since the inauguration of free agency." In addition to raising salaries, free agency gave players greater job security as teams began signing players to multiyear contracts to a much greater extent than in the past. In 1980, approximately 40 percent of players had multiyear contracts. Before 1975, there had been none; Catfish Hunter was the first.<sup>28</sup> Thus, Kuhn's belief that free agency was a myth had been mistaken. Free agency led to a significant increase in salary for all players and gave them job security. However, all too often success leads to resentment, and even though the owners were the ones giving out multiyear contracts, they were not happy with the escalating salaries and the MLBPA's continuing success.

The negotiations for the next basic agreement began in ominous circumstances, with MLB announcing that a \$500,000 fine would be levied on any owner who publicly spoke about the 1980 negotiations. The owners were attempting to show a united front to the public, even if they were not as united in private. They wanted to eliminate salary arbitration for players with less than six years' experience and to replace it with a maximum salary of \$153,000, a figure below what many players were already earning. In addition, the owners wanted compensation for any player lost to free agency, to consist of another active major league player, rather than draft pick, as previously was the case. It was thought that the likelihood that a free agent would change teams would diminish if the new team had to give up another major league player in return. Miller and the MLBPA rejected the proposals. Once again the players were united. As St. Louis Cardinal Ted Simmons stated, the "key word about Marvin [Miller] is that he is essential. . . . Without him, strong and intelligent as he is, we might not have that bright light that serves us as a beacon." Unity was demonstrated in the strike authorization vote, which was 967-1 (the one dissenting vote made on religious grounds) in favor of striking. The players were not asking for anything; they just did not want to give up their hard-earned gains.<sup>29</sup>

On April 1, 1980, the players formally struck, cancelling spring training games. The MLBPA stated that the season would still begin as scheduled—which it did—but that they would strike again on May 23 if the owners refused to back down from their demands. Once again, the baseball press was generally against the players. For example, Jim Murray wrote that the players “were lucky baseball is around to keep them in minks and Rolls [Royces]. . . . They should be grateful for the spadework done by generations of promoters, reporters, announcers, technicians, contractors and so forth who made it all possible. They’re grateful to a man who had nothing to do with it, Marvin Miller, the only labor leader in history to represent a company of millionaires.” He further stated that players’ “skills were not transferable to anything that mattered. Some guys make more money than they can count to.” After a series of meetings, the two sides reached an agreement on May 22.

The agreement largely came about because some owners were surprised that their players were about to go on strike; they had thought the players were bluffing. Management had totally underestimated the resolve of the players. This led to an agreement being arranged quickly. The minimum salary increased by \$5,000, to \$35,000 by 1984, and the owners’ pension contribution would rise to \$15.5 million per year. Moreover, while players previously had to be in the majors for four years to receive a pension, now as soon as they played one game they were eligible. Finally, players were able to gain salary arbitration after two years rather than the previous three. Thus, the players gained better wages, even though they’d struck just to protect what they had. However, quite ominously, on the issue of free agency no decision was made. Instead, a four-person committee was appointed to look at the issue. If no agreement was reached, the owners could implement a severe curtailment of free agency, but the players could inform the owners by March 1, 1981, that they planned to strike on or before June 1. The owners and commissioner tried to portray the agreement as a victory, which had the effect of making their relationship with Miller and the MLBPA even more hostile.<sup>30</sup> In other words, labor conflict was averted, but not solved. It was almost inevitable that things would erupt the following year.

The 1981 stoppage was over the issue of free agency compensation. As noted above, the owners wanted compensation for losing a free agent player to another team. MLBPA argued that any form of compensation would diminish the point of free agency. This time, the owners were well prepared for any “stoppage of play.” They had purchased strike insurance from Lloyds of London to the tune of \$50 million and they also had a

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\$15 million strike fund from their own contributions. The players also had a strike fund, and, crucially, they also were united. On February 17, 1981, the PRC's Ray Grebey announced at a press conference that the owners would impose a curtailment of free agency, as the committee charged to look at the issue could not come to an agreement. That the committee could not come to an agreement was not a surprise even though non-hawkish baseball GMs such as Frank Cashen and Harry Dalton were part of it.

The players wanted free agency and did not want it watered down in any form. On February 24, they authorized a strike, to begin on May 29 if no agreement could be reached. Management was caught out thinking that the players would simply accept a loss of their gains, as Grebey was shocked that the players were prepared to strike over free agency. However, due to the issues being brought before the courts, the actual strike was delayed until June 8. The players displayed good solidarity; cracks did form, but they were swiftly healed over. Chicago White Sox player representative Greg Pryor argued, "This strike is not designed to benefit players who have signed multi-million-dollar, multi-year contracts. . . . They have already received the benefits of their free agency. . . . Instead, the strike is for the benefit of all those present and future players who may become free agents."<sup>31</sup>

The unity of the players was not shared by the owners, but they did everything in their power to display a united front. New York Yankees owner George Steinbrenner stated, "Marvin [Miller] always waits for three or four owners to bolt. It won't happen this time." Indeed, Grebey fined Milwaukee Brewers general manager Harry Dalton \$50,000 after he urged a compromise be reached. The press criticized the owners adopting such an approach. Moreover, somewhat surprisingly given the past hostility, more media than before supported the players. Most famously, *Sports Illustrated* ran a cover article during the strike entitled: "Strike! The Walkout the Owners Provoked." Interfering with any compromise was the bitterly antagonistic relationship between Miller, on the one side and owners' representative Grebey and Commissioner Kuhn, on the other. It is alleged that the strike was prolonged by the dislike they shared for each other. Indeed, Miller and Grebey refused to be photographed together once a settlement was reached. Moreover, as Burk notes, Kuhn "accused the players of becoming 'prisoners' of Miller's ego and knee-jerk hatred of management." Likewise, Miller labeled Kuhn "an idiot with delusions of independence." The owners strike insurance began after 153 games were cancelled. They would receive \$100,000 for each canceled

game up to a maximum of five hundred games. For some teams, such as the Los Angeles Dodgers, this was well below what they would earn for a home date, but others, like the Minnesota Twins, actually made money during the strike. The Dodgers lost almost \$7.6 million in revenue from ticket sales and concessions alone during the strike. The owners' insurance policy was due to expire on August 8; by coincidence or not, a compromise was reached on July 29, with the All-Star Game the first game played after the strike's end, on August 9.

The 1981 strike was the longest in major league history; unfortunately, that record would soon be surpassed. The strike lasted for fifty days, with 713 games being abandoned. Even with the strike insurance, the estimated loss for the owners was \$72 million, with the players losing approximately \$28 million. The strike was not a success for either side. Clubs could no longer be directly compensated for the loss of free agents. However, they could retain players for six years and be compensated with other players from the amateur draft. Moreover, one-third of the teams would contribute players to a pool from which a team that lost players to free agency could choose, and the team that signed the free agent relinquished an amateur draft pick to the free agent's former club. While at the time the amateur draft was not that significant, now it serves as the entry point into the major leagues for more than 50 percent of active players.

Overall, that the players had held firm could be considered a victory in itself. Due to the unequal finances of employers and employees, in a strike situation it is generally the employees whose resolve is weakened due to economic necessity. Nonetheless, after the strike some owners thought that continued conflict with the players was pointless. Chicago White Sox owner Jerry Reinsdorf stated, "I don't think there was any point, from the owners' standpoint, to this strike. . . . This is an instance where the majority [of owners] doesn't know what's good for it." Of course, by 1994 Reinsdorf's position had changed, and he was one of the driving forces of the owners' no-compromise stance of 1994-95.

The final word on the 1981 strike should go to Marvin Miller:

The 1981 strike was the most principled I've ever been associated with. Through the entire ordeal, the players remained united and strong. In 1981 scores of players had nothing to gain personally from the strike, but there were veterans on every team who remembered how it used to be and the role of union solidarity in changing things. . . . I'll say it again:

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It was the most principled strike I've ever been associated with; it was the Association's finest hour.<sup>32</sup>

The 1981 strike was to be Miller's last major stand as leader of the MLBPA. He resigned from his position in 1982, although he returned to serve as interim leader from November to December 1983. During his tenure as executive director of the MLBPA, the average player salary increased from \$19,000 per year to \$326,000, and (limited) free agency became the rule. Other MLBPA leaders built on his legacy, but it was Marvin Miller who turned the association into a powerhouse.

### More of the Same: Strikes, Lockouts, and Collusion

There was a belief that Miller was the cause of labor disharmony in baseball and once he was gone things would return to "normal." Also, some players thought that after the successful 1981 strike the owners would not want another conflict. Players' negotiating committee member Doug DeCinces of the Baltimore Orioles stated that "I very seriously doubt that the owners will try to challenge the players again."<sup>33</sup> However, industrial conflict was always in the cards as long as the owners were unhappy with the gains the players had made in the Miller era and the players did not want to give up what they'd fought so hard to achieve. As such, it was only a matter of time before there was further labor disharmony.

Indeed, there was a minor work stoppage in 1985. The MLBPA under new executive director Donald Fehr wanted an increase in player salaries, especially since baseball's new television deal quadrupled the value of the previous one. The new six-year contract was worth \$1.125 billion. Despite the dramatic increase in television revenue, the owners were claiming that they were hurting. While some reports supported the owners' claims, a report commissioned by the association disputed the owners' claims of financial hardship. Initially, the owners wanted a salary cap, but this idea did not last, as new commissioner Peter Ueberroth opposed it. Before the strike, owners increased their contribution to the players' pension by \$33 million for the period 1985-1998 and \$39 million in 1989. This was more than double the previous contribution, but it was less than the one-third share of television and radio revenues that was the norm agreed to by the owners in previous pension agreements. The two sides failed to reach agreement on other issues as well,

and the players walked out during the middle of the season. However, the work stoppage was to be short-lived. The strike only lasted two days and led to the loss of twenty-five games, which were eventually replayed.

The strike was so short largely because Ueberroth did not want a work stoppage under his reign as commissioner. At the start of the strike he ordered the head of the Players' Relations Committee to finalize a deal with the MLBPA within twenty-four hours. Moreover, Ueberroth announced that a deal had been reached between MLB and the Players Association before it was approved by the owners. Under the new five-year collective bargaining agreement, minimum salary increased from \$40,000 to \$60,000, with cost of living adjustment for the subsequent years of the contract.

The players did grant some concessions. One was in regard to salary arbitration, which the owners had hoped would reduce salaries, though it had proven not to be the case. Under the 1985 agreement, a player needed to have had three years' experience before he could go for arbitration; previously, a player had needed only two years' worth. This was a reversal of what was achieved in the 1980 collective bargaining agreement.

In contrast to earlier strikes and lockouts, this time there was a lack of player solidarity. For example, Don Mattingly said at the time, "If I don't go to arbitration next year, so what? I'll probably go the next year." Miller, who was hired as a consultant by the MLBPA during the 1985 negotiations, noticed the change of attitude of some star players. In his autobiography he wrote, "The grumblings of high-profile players like Reggie Jackson, Bob Boone, and Mike Schmidt highlighted the shift in attitudes since the strike in 1981. These players, no doubt, had 'paid their dues,' but they also benefited beyond their wildest expectations, and their bellyaching didn't seem to take into account that there were stars before them . . . who had made similar sacrifices without ever having reaped anywhere near the same rewards."<sup>34</sup> In this regard, it was not greedy millionaires wanting more, but players being happy with what they had and not necessarily thinking about the future. Instead, it was the owners who wanted more. Even though they achieved some concessions from the players, they were not satisfied. This led them to illegally collude in manipulating the free agent market in an effort to drive wages down.

At the end of the 1985 season there were sixty-two free agents, of whom only 5 signed with new clubs; in comparison, the previous year twenty-six out of forty-six free agents had changed teams. While there was some interest expressed in the players, it was noticeably less

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than normal, and led to the MLBPA filing a grievance under Paragraph H, article XVII of the collective bargaining agreement. The paragraph states: "The utilization or non-utilization of rights under this Article XVII is an individual matter to be solely determined by each Player and each Club for his or its own benefit. Players shall not act in concert with other Players and Clubs shall not act in concert with other Clubs." As noted above, the owners wanted this clause included in the 1976 agreement following the lockout as they were fearful that the MLBPA and/or player agents would collude to drive wages up. The association had agreed to include it only as long as teams were under the same restraint.

The architect of the collusion strategy was Commissioner Ueberroth. He harassed the owners at a series of meetings on the importance of financial prudence and questioned why they kept overspending on average players. In 1986 the collusion continued, when twenty-nine out of thirty-three players remained with their old clubs, with the majority of them only able to achieve one-year contracts. Likewise, despite the following year's free agents being a stronger crop, most were forced to sign with their current clubs at amounts less than they deserved. The 1987 free agents' salaries decreased 16 percent, and three-quarters were forced to accept one-year deals. It was not just free agents hurting; because they were earning less it meant that the average player earned less; the average salary of a player with two years' service time in the major leagues declined by 38 percent.

The collusion among the owners not only artificially lowered wages, it also provided less job security for the players. In effect, collusion was the reserve clause with a "different face." However, unlike the reserve clause, collusion was fated not to last for decades. In three separate rulings, the MLBPA was successful in proving that the teams had colluded against the players.

During the first collusion case the owners fired the arbitrator, Thomas Roberts, while the hearings were in progress. While there are grounds for both MLB and the MLBPA to fire an arbitrator and it has happened in the past, on this occasion the owners did so as a stalling tactic. The tactic was "successful" inasmuch as it had the effect of delaying the first grievance decision. Even though the MLBPA filed the grievance in February 1986, a decision was not reached until September 1987. During this period the MLBPA demanded a ruling on the legality of the owners firing Roberts. The association's contention was upheld in court, and Roberts was reinstated. The dispute over Roberts allowed the owners to collude further against the players as it delayed a decision

being reached. However, it also had the effect of increasing the damages against the owners.

After the third collusion case was decided against the owners in 1990, the overall settlement for the three cases cost them more than \$280 million. Nonetheless, this figure was minuscule compared to the television package secured by Ueberroth in 1988. CBS paid the league \$1.1 billion and in return it won the rights to broadcast the World Series, the All-Star Game, and twelve regular season games from 1990 to 1993. Likewise, ESPN agreed to show 175 regular season games for \$100 million per year for four years.<sup>35</sup> Despite these increases in revenue, after the 1985 agreement was in place the owners decided to reduce the size of their teams' rosters—and payrolls—by decreasing them from twenty-five to twenty-four players. Although the MLBPA filed a grievance, the decision was upheld in arbitration. Thus, as in previous years, the next round of labor disharmony between the players and the owners was only a matter of time.

Nearing the end of the 1985 collective bargaining agreement, in 1990 the owners locked out the players during spring training for thirty-two days. Both owners and players were ripe for an industrial dispute. The owners had a strike fund of \$170 million and had agreed to a line of credit with a bank for an additional \$130 million. Likewise, the players' strike fund was worth approximately \$80 million and the MLBPA told the players to insist on a clause in their contracts that they would still be paid if there were a lockout or strike. Among other demands, the owners wanted players to only receive 48 percent of revenue and for there to be a salary cap.

Though negotiations were moving slowly, a compromise seemed possible, but rather than start spring training on time, the owners imposed a lockout on February 16. MLBPA Executive Director Donald Fehr noted, "The day before they gave us the proposal, they announced the lockout date and apparently they're stuck to it. But they're not doing it for any reason related to the negotiations or the industry." Moreover, after almost agreeing to a contract the owners introduced new demands. They asked for the elimination of maximum salary cuts for players with three to six years in the major leagues, and demanded that the players and MLBPA not be allowed to use "free agency and multiyear contract comparisons in salary arbitration cases." However, demonstrating a lack of unity on the MLB side, the next day baseball commissioner Fay Vincent alerted the MLBPA that these new demands were no longer in effect. Instead, he proposed an increase in the minimum salary to

effect of increasing the damages

decided against the owners in the cases cost them more than was minuscule compared to the in 1988. CBS paid the league rights to broadcast the World regular season games from 1990 to 1994. In 1995, the owners decided to reduce the number of regular season games from 175 to 162. In spite of these increases in revenue, the owners decided to reduce the number of regular season games—by decreasing them from 175 to 162. Although the MLBPA filed a grievance, the owners decided to reduce the number of regular season games. Thus, as in previous years, the owners decided to reduce the number of regular season games between the players and the owners.

collective bargaining agreement, in 1990, during spring training for thirteen days. The owners were ripe for an industrial dispute. The owners had agreed to a line of credit for \$130 million. Likewise, the players had agreed to a line of credit for \$80 million and the MLBPA had agreed to their contracts that they would not strike. Among other demands, the owners demanded a 48 percent increase in revenue and

slowly, a compromise seemed to be in the air. During training on time, the owners of the MLBPA Executive Director Donald F. Fisher announced the proposal, they announced they would not go back to it. But they're not doing anything for the industry." Moreover, the owners introduced new demands. The owners demanded that the players accept a 10 percent salary cut for players with less than five years of experience and demanded that the players accept a 10 percent salary cut for players with more than five years of experience. However, demonstrating a day baseball commissioner Fay Vincent's new demands were no longer in place in the minimum salary to

\$85,000 and a pension increase of approximately \$44.8 million per year. Like Ueberroth in the 1985 strike, Vincent did not want a prolonged work stoppage under his reign as commissioner. Just before the start of televised spring training games, an agreement was reached. The agreement was basically similar to the previous one.

However, owners agreed to contribute an extra \$16 million a year to the pension fund, to increase the minimum salary by \$40,000, to \$100,000, with a cost of living adjustment for future years of the contract, and to permit major league rosters to revert back to twenty-five players. Once again, there was to be no salary cap. The agreement also granted salary arbitration to approximately twelve players per team with between two and three years' experience, comprising roughly the best 17 percent of that team's personnel, which was a slight recovery of what the MLBPA had conceded in the 1985 collective bargaining agreement. This gain, although not as large as the players had wanted, was important for the association because players with less service time often mentioned the "lost year" before a player could gain arbitration. For a sports union/association, arguably one of the most important responsibilities is keeping newest members happy, since they will be the stars in the future, with the ability to influence future players' attitudes toward the union/association. Additionally, in an attempt to prevent any future collusion, the agreement tripled the damages to be assessed for any future occurrences by the owners.

The lockout had the effect of delaying the regular season and the postseason by a week.<sup>36</sup> Overall, the new contract was a victory for the MLBPA and the players. As is often the case, however, success came at a price. The price that the players paid was that the owners were sick of losing. They wanted to win at any cost. This set the stage for the 1994–95 strike, which eventually led the World Series not being played for only the second time in its history.

In 1992, the owners forced Commissioner Vincent to resign because they were unhappy with his performance, in part his handling of the 1990 lockout. The owners were not pleased that he had an amicable relationship with the MLBPA. He was replaced by one of their own, Milwaukee Brewers owner Bud Selig. While in the past the players believed that the commissioner favored the owners over themselves, Selig's appointment left little doubt in the matter. The role of commissioner would be more in tune with the owners' desires.

The 1994 season started without a collective bargaining agreement in place. Players' salaries were the main stumbling block. While national

television revenue had increased 1,742 percent between 1971 and 1990, player salaries had increased by a similar amount, 1,741 percent. Thus, while the owners were receiving more money, they were spending almost all of it. The 1990 collective bargaining agreement had no effect in lowering player salaries. In fact, from 1990 to 1993 the average player's salary increased 86 percent, from \$597,000 to \$1.109 million. The players received approximately 55 percent of the revenues of major league baseball.

Of course, it was not the players' fault that the owners kept offering them more money; how many people would turn down an increase in their salary if it was offered? As William Gould states, "One cannot begrudge baseball's millionaires in their attempts to become billionaires like the owners. Indeed, by the standards of other entertainers, or the obscene income provided to American CEOs present and past, such demands are quite modest and reasonable and, on balance, their performance more praiseworthy than the latter group."

Even though MLB was arguing that economic conditions required the players to accept concessions, new San Francisco Giants owner Robert Lurie went out and signed Barry Bonds to a then-record six-year \$43 million contract. However, the owners blamed the players and, determined to play hardball, announced their decision to opt out of the collective bargaining agreement a year before it was set to expire in December 1992. However, the decision was far from unanimous. The vote was 15-13.

Despite opting out of the previous collective bargaining agreement early and the belief that there would be a lockout in the coming season, the owners did not offer a proposal to the MLBPA in 1993. The reason they did not do so was that the owners could not come to any agreement among themselves concerning the nature or specifics of such a proposal. Indeed, they did not offer any proposal to the association until June 14, 1994, well after the 1994 season was underway and the previous collective bargaining agreement had expired. The owners wanted a seven-year contract, with the players receiving a maximum of 50 percent of revenues, and the elimination of salary arbitration. In return, players with four to six years' experience could become free agents, a decrease from six years under the current collective bargaining agreement. Moreover, the owners wanted a salary cap.

On July 18, the MLBPA rejected the proposal. The association estimated that accepting the proposal would lead to a reduction of player salaries of at least \$1.5 billion over the life of the contract. Quite

simply, the association had no choice but to reject the proposal. During the negotiations, the owners withheld \$7.8 million that they were required to pay into the players' pension and benefit plans. Although the pension agreement had expired, MLB payments to it customarily came from revenues from the All-Star Game. As the game had already been played, the players felt the owners should have honored the customary arrangement. Their failure to do so inflamed the situation. Indeed, the players wanted to immediately go out on strike. However, the MLBPA urged restraint. Nonetheless, on July 28, the MLBPA authorized a strike, to begin on August 12 if a settlement could not be reached. Further threatening potential compromise was that Fehr and Players Relations Committee chairman Richard Ravitch had an acrimonious relationship. All things considered, it was no surprise that an agreement could not be negotiated before the deadline.

The timing of the strike was significant, as it was late in the season. Thus, the players would have already received the majority of their salaries, whereas the teams receive 75 percent of their revenue during the postseason. The situation favored the players, as they could strike longer without getting into financial difficulties. Moreover, the MLBPA strike fund amounted to approximately \$33 million. Hampering any potential compromise was that 75 percent of the owners had to agree to a new contract and the owners were split into three groups. Paul Staudohar notes that "groups were largely based on market size, with the hawkish advocates of radical change from small market teams. . . . On the other end of the spectrum were owners with teams in large markets and some owners from smaller market teams that had recently built new stadiums and were doing well financially. . . . The remaining teams were somewhere in between, looking for moderate change, but susceptible to arm-twisting from either the hawks or doves." Thus, the owners were divided, wanting change, but the requirement that 75 percent had to agree to any new contract made it difficult for a swift resolution. After failing to come to an agreement, Commissioner Selig cancelled the season on September 14, to the dismay of the public.

The strike continued into the new year. Player solidarity was strong during the strike. One meeting summed up this solidarity. The MLBPA invited Curt Flood to speak to the players. When he walked into the room, the players gave him a standing ovation. It was from the struggles of the earlier generations of players that the current players reaped the benefits, which was something the group of players present at the meeting realized. By having Flood speak at a meeting, this notion

was reinforced. In addition, the players understood that they had to struggle just to get to The Show. Houston Astros pitcher Pete Harnisch eloquently explained the situation: "The players understand that we've come this far from some really bad days, and we don't want to take steps back. People are amazed at how united we've been. That's because we've had strong leadership, and because most of the players, no matter how much they're making now, have struggled in the minor leagues as I did."

The owners were equally determined to remain united. During the strike, Cincinnati Reds owner Marge Schott stated, "We have lost twenty of these labor conflicts in a row. . . . It's about time we won one." In January, the owners were no longer demanding a salary cap, but a luxury tax instead. Moreover, they unilaterally eliminated salary arbitration, the anti-collusion clause in the previous agreement, and, crucially, the owners and the MLB office were willing to play the 1995 season with replacement players. This was how spring training began, though the replacement players were not top prospects.

The Baltimore Orioles broke ranks immediately, refusing to use replacement players. This was partly due to the team's wanting Cal Ripken Jr. to break Lou Gehrig's major league record for consecutive games played in 1995. The merchandising opportunities presented by that event were undoubtedly somewhere in their minds. Likewise, coaches on some other teams, including the Detroit Tigers and Toronto Blue Jays, refused to work with replacement players. Moreover, the Ontario Labor Board announced that the Blue Jays could not use replacement players as it would be a violation of Ontario law. The MLBPA argued that it would not call off the strike if replacement players were used during the regular season. The situation never came to this; a resolution was near.

On March 26, 1995, the National Labor Relations Board handed down its decision on a request filed by the MLBPA for a ruling against the owners that would enforce the mandatory bargaining rule and condemn the owners' unilateral action in imposing their position prior to the impasse between the two sides. By a vote of three to two, the NLRB agreed with the players and demanded a quick judicial opinion. The strike ended on March 31 when federal judge Sonia Sotomayor issued a preliminary injunction against the owners. She noted that at the end of a contract, "the parties must not alter mandatory subjects until a new agreement is reached or a good-faith impasse is reached." She further stated, "Opening Day is one of the most beautiful days on the baseball calendar and it should not be disturbed because one side has failed to fulfill its duties under the collective bargaining mandates of this country."

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 ow. . . . It's about time we won  
 longer demanding a salary cap,  
 ey unilaterally eliminated salary  
 n the previous agreement, and,  
 ce were willing to play the 1995  
 was how spring training began,  
 or top prospects.

ks immediately, refusing to use  
 e to the team's wanting Cal Rip-  
 gue record for consecutive games  
 rtunities presented by that event  
 inds. Likewise, coaches on some  
 s and Toronto Blue Jays, refused  
 eover, the Ontario Labor Board  
 ot use replacement players as it  
 re MLBPA argued that it would  
 ers were used during the regular  
 is; a resolution was near.

Labor Relations Board handed  
 the MLBPA for a ruling against  
 datory bargaining rule and com-  
 posing their position prior to  
 vote of three to two, the NLRB  
 a quick judicial opinion. The  
 . judge Sonia Sotomayor issued  
 ers. She noted that at the end  
 mandatory subjects until a new  
 nspasse is reached." She further  
 : beautiful days on the baseball  
 : because one side has failed to  
 ining mandates of this country."

The owners lost the court case because, while they reopened nego-  
 tiations in December 1992, they did not offer a proposal for negotiation  
 until June 1994, and the proposal they offered then contained major  
 changes. Moreover, because the owners made very few changes to their  
 initial proposal there was a stalemate in the negotiations.

Judge Sotomayor's ruling ended the strike; the players called it off  
 immediately and stated they would go back to work under the terms  
 of the old contract, while the owners did not impose a lockout. The  
 replacement players were quickly fired, although nineteen of them would  
 eventually play in the major leagues. The aftermath of the strike wit-  
 nessed a 20 percent decline in attendance in 1995, and there was still  
 no agreement in place. Eventually, a contract was signed in November  
 1996, two years and three months after the strike had begun. Minimum  
 salary increased by \$41,000, to \$150,000, but there were no changes  
 made to salary arbitration and free agency.

One change that was adopted was that a luxury tax was agreed  
 to, and revenue sharing was adopted. In regard to the luxury tax, as  
 Zimbalist notes, "beginning in 1997 the teams with the top five payrolls  
 paid a tax of 35 percent on the amount which their payroll was above  
 the midpoint between the payroll of the fifth- and sixth-highest payroll  
 teams. The 1998 tax was 35 percent on the top five payrolls on the  
 amount they were above 1.078 times the 1997 threshold. The 1999 tax  
 was 34 percent on the top five payrolls on the amount they were above  
 1.071 times the 1998 threshold." However, there was no luxury tax  
 imposed for the 2000 and 2001 seasons, as revenue sharing was phased  
 in. By the 2001 season, there was a 20 percent tax on every team's net  
 local revenues. Seventy-five percent of the amount yielded was then  
 divided equally between all clubs, with the remaining 25 percent being  
 distributed on a proportional basis to teams whose revenue was below  
 the league average. This led to the transfer of approximately \$168 mil-  
 lion from the top half revenue teams to the bottom half.<sup>37</sup>

Considering that the owners' initial proposal would have cost the  
 players \$1.5 billion over the term of the contract, even though the strike  
 cost the players \$300 million their decision to walk out made economic  
 sense. Of course, it made particular sense to future players and players  
 whose best years in the big leagues were ahead of them. On the other  
 hand, the players who were never to play another major league game,  
 or who had their prime earning years curtailed by the strike might have  
 preferred that there had been no strike and the MLBPA had accepted  
 the owners' demands. One crucial lesson from the 1994-95 strike was

that no matter the resolve of the players, if the owners want to play hardball it is very difficult for a union to succeed. The victory for the players was that they did not capitulate to the owners' demands and paved the way for future generations of players to be fairly rewarded.

Another lesson learned from both sides is that no one in professional sports benefits from a long-term industrial dispute. The 1994-95 strike was the last work stoppage in baseball until at least 2016, when the current agreement expires. In this regard, the owners, the players, and the league are on a long winning streak. While there has been major industrial conflict in the NBA, NFL, and NHL, baseball has entered a period of relative labor harmony. Player salaries have continued to climb every year and baseball has witnessed strong growth after a period of turmoil.

The negotiations for the next collective bargaining agreement, however, in 2002, came down to the wire. While there were informal discussions, Commissioner Selig and the owners did not engage in formal meetings with the MLBPA until well after the previous collective bargaining agreement had expired, in November 2001. The reason for the lack of a formal proposal from the owners was most likely due to disunity among them. Moreover, in October 2001 Selig announced that two teams would be eliminated before the start of the 2002 season. This would have led to the loss of eighty MLBPA members, as well as prospectively leading to a decline in wages due to an increase in competition for roster positions. While the elimination of teams did not eventuate, this, combined with the absence of negotiations and the presence of what the players viewed as hardball demands by Selig and the owners (such as teams being able to fire players whose wages were deemed too high after salary arbitration), increased the likelihood of a work stoppage. Following fruitless talks, on August 12, 2002, the MLBPA set a deadline of August 30 for a deal, or the players would go out on strike. This deadline had the effect of speeding up negotiations, and just before August 30 an agreement was reached on a four-year contract, the first time in thirty years that a deal had been finalized without a work stoppage. As Fehr stated at the time, "All streaks come to an end, and this is one that was overdue to come to an end." In the end, neither MLB nor the players had wanted another work stoppage so soon after the 1994-95 strike.

Under the terms of the agreement, minimum salary increased to \$300,000 for the 2003 and 2004 seasons with cost of living adjustments for 2005 and 2006. In regard to revenue sharing, the final position was

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; minimum salary increased to with cost of living adjustments : sharing, the final position was

a lot closer to the owners' initial demands than the players'. Under the revised revenue sharing, as Staudohar notes, "all teams will contribute 34 percent of their local revenues to a fund that will be divided equally among teams. In addition, a central fund component was established by a formula that provides another \$72.2 million, taken annually from richer teams and distributed to poorer teams. The component will be 60 percent funded in 2003, 80 percent in 2004, and 100 percent in 2005-06." As for the luxury tax, it was less draconian than in the 1996 collective bargaining agreement. However, that it was included was somewhat a victory for MLB, as there had been no luxury tax for the 2000 and 2001 seasons. Also, Fehr did not want a large luxury tax if there was going to be increased revenue sharing, and the tax was phased out as revenue sharing phased in under the previous agreement.

Fehr and the association eventually agreed to both revenue sharing and a luxury tax, but the luxury tax threshold and rate were a lot closer to the MLBPA's position than the owners'. The luxury threshold was \$117 million in 2003, increasing to \$136.5 million in 2006. The tax level for teams above the threshold was 17.5 percent, increasing to 30 percent for two-time repeat offenders, and 40 percent for consecutive three-time repeat offenders.<sup>38</sup> The 2002 collective bargaining agreement was one of compromise that benefited both the players and the owners and ensured labor peace for the next four years, which allowed baseball to rebuild after the 1994-95 strike. There was a similar outcome in the 2006 collective bargaining agreement.

The 2002 agreement proved fruitful for the players. By the end of the contract average player salaries had increased to \$2.8 million. Moreover, unlike the negotiations for the 2002 agreement, which was only settled at the eleventh hour, and unlike all previous baseball collective bargaining sessions, the 2006 contract was arrived at nearly two months before the deadline and with no hint of industrial conflict. Commissioner Selig noted that "[t]his is the golden era in every way. . . . The economics of our sport have improved dramatically, and that's good. The last agreement produced stunning growth and revenue. I believe that five years from now people will be stunned at how well we grew the sport. This agreement encourages that, and I'm very confident that it will produce the same results that we're all concerned about and that I certainly am—not only economic growth, but parity." Likewise, Fehr claimed, "What was really different this time was that the approach to bargaining, while it had its difficult moments, was very workmanlike, very pragmatic, very day-by-day. . . . There was a shared desire to see

if we could resolve this well ahead of time and if we could get it done by about the time of the World Series, before the free agency declaration period began." He further noted, "I'd been waiting for most of that time [since he became head in 1985] to see if we could ever get to the place where we reached an agreement prior to expiration. . . . And while I always understood intellectually it was possible and that was the goal, I'm not really sure I believed that it could happen." As for the contract itself, it was pretty much more of the same. Minimum salary increased to \$380,000 for the 2007 season, \$390,000 in 2008, \$400,000 in 2009 and 2010, and \$400,000 in 2011, with a cost of living adjustment included. In regard to the luxury tax, the tax rates for a first breach was 22.5 percent, 30 percent for a second and 40 percent for a three-time repeat offender, while the threshold increased to \$148 million in 2007, \$155 million in 2008, \$162 million in 2009, \$170 million in 2010, and \$178 million in 2011. However, there was a change in regard to revenue sharing. Under the old system, as Zimbalist points out, "[h]igh-revenue teams actually experienced lower marginal tax rates than the low-revenue teams." As a result, high-revenue teams "had a lower disincentive to improve the talent base of their rosters and, thereby, to generate more revenue." Thus, there was not a lowering of payroll disparity, and large inequality between the teams remained. Under the new system, the tax rate was reduced to 31 percent, down 3 percent, for all teams and the "marginal tax rates in the system are now basically flat rather than regressive." This has resulted in more balanced competition, as "the different measurements of competitive balance have shown some improvement."<sup>9</sup> Quite simply, the agreement was a good contract for the players, owners, and Major League Baseball.

The same was true for the 2011 collective bargaining agreement. Under the terms of the new five-year agreement, minimum salary increased to \$480,000 in 2012, \$500,000 in 2014, and \$500,000, plus cost of living adjustments for 2015 and 2016. The luxury tax threshold increased to \$189 million in 2014, 2015, and 2016. However, the tax rate decreased to 17.5 percent for first-time offenders, but rises to 50 percent for teams that exceed the threshold four or more times consecutively. In a win for the association and players, the number of players with two to three years' service time in the major leagues eligible for salary arbitration increased 5 percent, to 22 percent beginning with the 2013 season. Commissioner Selig stated that "[l]abor peace has proven essential to the best interests of baseball and its millions of fans." Likewise, MLBPA head Michael Weiner claimed, "It's a good day for baseball and

a good day for collective bargaining." It is surprising that neither Selig nor Weiner said it was a good day for the world.

Hyperbole aside, with the new five-year agreement, there is a guarantee of labor peace in baseball until at least 2016, which will mark twenty-one years without either a lockout or strike. This record is the envy of professional basketball, football, and ice hockey. As for player pensions, the bane of so many previous industrial conflicts, players are eligible to receive a partial pension after only one day in the majors. The amount players receive rises to at least \$100,000 after ten years' service time, with most ten-year veterans receiving \$195,000 annually. Furthermore, pre-1980 players are now eligible to receive \$10,000 for at least two years as long as they played one game in the majors. This issue will be discussed further during the 2016 collective bargaining negotiations. The money for the pre-1980s players' pension was funded largely from the luxury tax.

There were also major changes to revenue sharing. Beginning in 2016, the teams in the fifteen largest markets will no longer receive any money from revenue sharing; teams cannot use revenue sharing income to pay off debt; and teams eligible to receive revenue sharing income must have a major league payroll 25 percent above the amount they obtain.

Finally, there were further changes to the free agency rules that favor the players. As ESPN reporter Jayson Stark notes, "For years, if a free agent was good enough to get 'Type A' or 'Type B' stamped on his back, his old team almost always got a draft pick or two if he signed with somebody else. . . . [However,] starting next winter, the old system will cease to exist. No more Type A's. No more Type B's. And theoretically, the only players who will deliver any kind of compensation to their old teams are a handful of 'elite' players who are so good that their former teams won't mind tendering them a 'qualifying offer.' That qualifying offer would be a one-year guaranteed contract that computes to the average salary of the 125 highest-paid players in baseball." For the 2014 season the qualifying offer was \$14 million; this increased to \$15.3 million for the 2015 season. Furthermore, if a player gets traded midseason there is no compensation.<sup>40</sup> The owners once argued that free agency would ruin baseball, now even compensation for losing a free agent is largely disappearing.

Baseball has gone from the sport with the most labor conflict to the one that has the most harmonious relationship, a state of affairs few could have imagined back in the dark days of early 1995. While the

luxury tax has slightly curbed the rise in player salaries in some years, it has had little effect overall. In 2012, the average player salary stood at \$3.44 million. By way of comparison, in 1989 the average player salary was just under \$513,000 and in 1996, the first year of the luxury tax, it was \$1.18 million. Thus, in regard to salaries the players are doing well. Likewise, the teams are generally doing well. Operating income for the teams fell 9 percent in 2012 to an average of \$13.1 million, but only six of the thirty clubs showed an operating loss. Moreover, according to *Forbes* the average worth of the clubs is \$744 million; an increase of 23 percent since 2011 and the highest level since they first started tracking team worth back in 1998. Demonstrating the desire to own a baseball team, the Los Angeles Dodgers were sold in 2012 for more than \$2 billion and have an estimated worth of \$1.6 billion, second only to the Yankees, whose net worth is \$2.3 billion. Fueling the rise of net worth of the teams is that television rights fees have increased dramatically and many teams have or are looking at starting their own networks. Moreover, in 2011 MLB signed a new eight-year national broadcasting deal worth \$12.4 billion. The most recent figures show the trend of team worth rising with operating income falling. Operating income for the teams fell 26 percent in 2013, a decline of \$13.1 million from 2012. However, as *Forbes* notes, "that is nothing to be alarmed about. Remember: the name of the game is to upload as much revenue as possible to the team's holding company and download as much expenses as possible from the parent company to the team." The average worth of clubs is now \$811 million, a 9 percent increase from 2012. The Yankees are now worth \$2.5 billion, the Dodgers worth \$2 billion, and all but three teams (the New York Mets, Miami Marlins, and Houston Astros) are worth more than they were in the previous year.<sup>41</sup>

The biggest issue that baseball has to confront is that of performance-enhancing drugs. For all the handwringing condemnation and moral outcry, in this regard baseball is no different to any other sport. Indeed, the testing program in baseball is one of the toughest in the world. Arguably, there are fewer drugs in baseball now than there were in the 1960s and 1970s, when amphetamines were freely available and recreational drug use was not tested, let alone performance-enhancing drugs.<sup>42</sup> As the recent Biogenesis scandal demonstrates, both MLB and the MLBPA are doing what they can to eradicate drugs in the sport. However, when millions of dollars and ego are involved there will always be players that try to gain an edge. Nonetheless, the performance-enhanc-

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ing drugs are the biggest issue facing baseball says something about the  
state of the game. Baseball is healthy, the players are being adequately  
rewarded, and there is labor peace. Quite simply, it is a good state of  
affairs for everyone concerned.