

updating these essays and the original researchers will be given first opportunity to do those updates.

The Mariners

In many ways, the Seattle Mariners history begins on April 1, 1970, when federal bankruptcy referee Sidney Volinn declared the expansion Seattle Pilots insolvent. It was just six days before Opening Day, but the decision cleared the way for the club to relocate to Milwaukee, with an ownership group headed by a car dealer, Bud Selig.

A few months before the Pilots departed, after correctly assessing Seattle's baseball situation as dire, the state's attorney general, Slade Gorton, and King County Executive John Spellman asked Seattle attorney William Dwyer if he would represent the state and the county in making a legal effort to keep the Pilots in Seattle.¹

Dwyer's case was filed in the fall of 1970. He argued that a contract had been created between the American League, on one side, and the state, county and city – in effect, the people – on the other, and his contention was that the American League had violated it. He alleged breach of contract, fraud and antitrust violations, even though baseball was exempt from prosecution under antitrust law.

Dwyer argued that the "implied contract" called for the American League to place an expansion franchise in Seattle and keep it there. In return, citizens, through the government, would spend money to repair an aging Sicks Stadium for the team's temporary use and also support a \$40 million bond issue to fund a domed stadium.

The case didn't get to trial until January of 1976 because it was continued a number of times in order to give the American League and Washington state's government entities an opportunity to reach a

¹ David Eskenazi and Steve Rudman, *Wayback Machine: Dwyer KO's American League*. SportsPressNWsportspressNW.com /2124781/2011 10/25/2011.

settlement with the aim of securing for Seattle a new major-league team.

Confident that major-league baseball would return to Seattle within a few years, King County built the multipurpose Kingdome, which would become home to the NFL's expansion Seattle Seahawks in 1976.

At trial, the American League offered to give Seattle an expansion baseball franchise in return for dropping the suit, and details were ironed out over the next year. To keep the league with an even number of teams, a formal expansion proceeding was held, with a second team, the Blue Jays, being awarded to the city of Toronto (also allowing both leagues to have a team in Canada, the National League's Montreal Expos having been established in 1969).²



MLB arrived in Seattle in the form of the Pilots in 1969

The expansion vote by the American League, conducted in advance of any settlement, was held on January 14, 1976. American League owners voted 11 to 1 to place an expansion franchise in Seattle for the 1977 season provided that owners could be found and that the city provide a suitable ballpark.

On February 6, satisfied with the Kingdome as a suitable baseball facility, the AL awarded an expansion franchise to a group headed by Seattle businessman Lester Smith and entertainer Danny Kaye. Other partners included Walter Schoenfeld, Steven Golub, Jim Walsh, and Jim Stillwell. The partners paid \$5.53 million for the franchise.

The formal settlement of the case, however, was not reached until February 14, as the Seattle legal team argued that the plaintiffs were entitled to damages, including reimbursement of legal fees. Considering the success of Dwyer in presenting his case and the overall damages the American League faced if it lost, the league on February 14 agreed to pay damages to the State of Washington, King County

² Ibid.

and the City of Seattle. It marked the first time that a major-league franchise had been secured through litigation.³

Initial Ownership

When Seattle was awarded the new baseball franchise in 1976, the investor group financed the team for \$6.5 million, giving the team some initial working capital beyond the franchise fee.⁴ Lester Smith had built a radio-station group with business partner Danny Kaye, the Hollywood entertainer. The business was known as Kaye-Smith Enterprises and also included a concert-promotion company (Concerts West), a recording studio and film-production company (Kaye-Smith Productions, and a radio syndication company).⁵

Other owners included Stanley Golub, a local jewelry wholesaler; Walter Schoenfeld, founder of the designer jeans company Britannia Sportswear



Danny Kaye was an original owner of the Mariners and a founding partner of the Seattle Supersonics and soccer's original Seattle Sounders; and James Stillwell, owner of Stillwell Construction, which was active in highway construction in the Pacific Northwest.

The formation of the Seattle Mariners was the beginning of a franchise whose general lack of success on the field has not necessarily matched its historical accomplishments. Despite never making a World Series appearance, and despite a long-term losing record, this franchise has generated interest beyond its accomplishments on the field. From

unique plays to special players to a few exceptional seasons, the Mariners have earned attention beyond their on-field success, or lack thereof.

During the early years, the fans' image of the team centered on poor play and odd ownership decisions that invariably kept the team downtrodden. In those days, player moves were often made to make a brief boost in attendance or to save money, without always trying to improve the performance of the team. Starting with the ownership of Jeff Smulyan and then onto the Nintendo-based and local ownership groups, the team evolved into a community-based asset with many successful players.

The original ownership group set about creating its initial management team in preparation for its first season, to begin in April 1977. Their first move came on April 18, 1976, when the Mariners named [Lou Gorman](#), then an assistant general manager with the Kansas City Royals, as their first director of baseball operations. Gorman's roles with Kansas City were numerous and his initial position with them was in 1968, when he was named their first scouting director. Gorman brought to the Mariners experience in building an organization from scratch.⁶

On June 2 the Mariners named Dick Vertlieb, instrumental in the early development of the NBA's Seattle SuperSonics and NFL's Seattle Seahawks, as the club's first executive director, or general manager.

At this time, the team still lacked a nickname, which was solved on August 24, 1976, when the team selected "Mariners" as the winning entry among the more than 600 suggestions in a name-the-team contest. Multiple fans submitted the nickname, but the team determined that Roger Szmodis of Bellevue, Washington, provided the best reason. "I've selected Mariners because of the natural association between the sea and Seattle and her people, who have been challenged and rewarded by it," said Szmodis, who received two season tickets and an all-expenses-paid trip to an American League city on the West Coast.⁷

³ Ibid.

⁴ Baseball Club of Seattle LP, *International Directory of Company Histories*, Vol. 50 (Farmington Hills, Michigan: St. James Press, 2003).

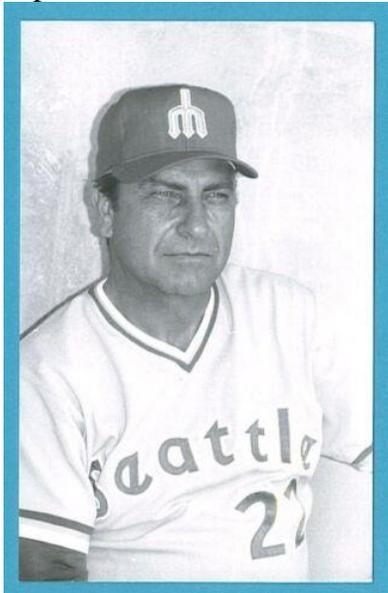
⁵ Lester M. Smith obituary, *Seattle Times*, October 27, 2012.

⁶ Larry Stone, "Former Mariners GM Lou Gorman," *Seattle Times*, April 1, 2011.

⁷ David B. Bissell. *Can You Name That Team?* (Lanham, Maryland: Scarecrow Press, 2003), 64.

With their executive team hired and a team name selected, the club began to prepare to field a team. On September 3, 1976, they selected [Darrell Johnson](#) as their first manager from a candidate pool that included [Bob Lemon](#), Joe Altobelli, and Vern Rapp. Johnson had most recently been the manager of the Boston Red Sox, fired after 86 games of the 1976 season. His real success, however, was the season before, when he led the Red Sox to the pennant and skippered the team through the exciting seven-game World Series against the Cincinnati Reds and was named the Manager of the Year by *The Sporting News*.

The key day to building a team was November 5, 1976, when the Mariners and the Toronto Blue Jays, the two teams set to begin play in 1977, had their expansion draft. Each team drafted 30 players from



the other American League clubs, paying a fee of \$175,000 for each player drafted (the fee was included in the amount of the expansion fee described above). Existing American League teams were allowed to protect 15 players in the first round, plus three more after each of the first three rounds (and two more players after the fourth round).⁸ With their first pick, the Mariners selected outfielder [Ruppert Jones](#) of Kansas City.

Spring training was conducted in Tempe, Arizona, and games were played at Tempe Diablo Stadium. This was the same site that the Seattle Pilots used in 1969 and 1970, prior to their move to Milwaukee. It remained the Mariners' site through 1993, when they moved to a shared site in Peoria, Arizona.

On April 6, 1977, the new Seattle Mariners played their inaugural game, against the California Angels.

⁸ MLB Expansion Drafts History, baseball-reference.com/draft/1976-expansion-draft.shtml.

It was played in the Kingdome in front of a sold-out crowd of 57,762. Seattle's starting pitcher, [Diego Segui](#), was the only player to play for both the Seattle Pilots and the Seattle Mariners. (He had pitched the ninth (and final) inning of what would



Diego Segui, opening day pitcher for the Mariners, is the only player to suit up for both the Pilots and Mariners

be the final game in Seattle Pilots history.⁹) Segui allowed six runs in the first 3 $\frac{2}{3}$ innings, and the Mariners went on to lose 7-0, the mirror image of the Pilots' home-debut win against Chicago eight years earlier. It wasn't often pretty, but it was major league baseball.

The Mariners, as an expansion team, struggled in their early years to build a successful team. After a relatively successful first year at the gate, attendance dwindled each year under the initial ownership group and never topped 900,000 after the first year. By the end of 1980, the team was cash-strapped and weary. While accepting a 1981 award from the National Conference of Christians and Jews, Stanley Golub, then a member of ownership, quipped, "When Danny Kaye and Lester Smith came to ask me to become involved in the Mariners, they said it would be a new chapter in my life. Little did I know it would be Chapter 11."¹⁰

In 1979, in an effort to boost interest in baseball in Seattle, the All-Star Game was hosted in the Kingdome. Bruce Bochte was the Mariners' sole representative and he entered the game in the sixth as a pinch-hitter, singling in a run. The game was a seesaw affair, with the game's MVP, [Dave Parker](#),

⁹ Seattle Mariners Baseball Information Department, *From the Corner of Edgar & Dave*, marinersblog.mlb.com/on-this-date-mariners-play-inaugural-game-4984af8e53e3.

¹⁰ Carol Beers, "Stanley Golub, 85; Jeweler Was Part Owner of Mariners," *Seattle Times*, October 19, 1998.

throwing out two runners from right field. In the ninth inning, the National League scored the go-ahead run and held on to win 7-6. The thrilling event did not translate into greater fan interest; the team continued to struggle to win consistently.

George Argyros

On January 14, 1981, Southern California real-estate developer George Argyros agreed to purchase 90 percent of the Mariners for \$10.2 million. (He subsequently bought the other 10 percent for \$2.9 million.) Argyros assumed the Kingdome lease after negotiating a provision that removed his personal liability for bankruptcy.¹¹

During his ownership, Argyros refused to put money into the franchise and constantly threatened to move the Mariners elsewhere. He famously tried to get the front office to draft Mike Harkey over [Ken Griffey Jr.](#) in 1987. Argyros hired executives from his other industries to run the team and one offseason gave his players pay cuts and suggested they attend seminars on the value of positive thinking.¹²

In late 1981 there was a rumor that Argyros was attempting to unload the team he had bought less than a year before.¹³ While he denied this, he began continual complaints about the Kingdome, its lease, and the lack of revenue sources that would allow him to field more competitive teams, all ultimately using threats of relocation.

In 1985, Argyros denied a report that the team might move or declare bankruptcy. The report suggested that the team was looking at possible bankruptcy or a move to another city unless attendance increased and the club got a better deal for use of the Kingdome.¹⁴

On March 26, 1987, Argyros announced he had offered to buy the San Diego Padres and that it had been accepted subject to “a final definitive agreement” and league approval. He said he wanted to sell the Mariners “as soon as possible.” This

announcement shocked baseball and enraged Seattle fans. His relations with the city, county, and fan base deteriorated even further. Jim Street of the *Seattle Post-Intelligencer* wrote that San Diego was “about the luckiest city since Beirut.”¹⁵

Immediately after the announcement, the city and the county began to study plans to keep the team in Seattle. On April 10, 1987, Governor Booth Gardner signed a law allowing Seattle or King County to buy the Mariners as a last resort. On that same day, Baseball Commissioner Peter Ueberroth ordered Argyros to remove himself from the club’s day-to-day operations.

On May 13, 1987, Bruce Engel, a Portland, Oregon, attorney and lumber-company owner, said he’d made a \$37 million offer for the team, but had been rejected by Argyros. Engel said his offer was contingent on significant minority participation from the Seattle business community. He said he would have kept the team in Seattle.¹⁶ Argyros held on.

Finally, on August 22, 1989, Argyros announced that he would sell the team to Indianapolis broadcast executives Jeff Smulyan and Michael Browning for \$76 million, nearly six times what he had paid in 1981.

Jeff Smulyan

When Smulyan bought the Mariners, he was asked if, at \$76 million, he had overpaid. “People say it’s the Greater Fool Theory, but we looked at the revenues and we had an idea of what we’d have to pay,” he replied. But he added: “I don’t know if the price was as much science as it was instinct.” In other words, he really wanted it.¹⁷

Smulyan had founded Emmis Broadcasting in 1979 and served as chairman and CEO since 1981. Emmis had pioneered a hugely successful new format with WFAN, New York, the nation’s first 24/7 sports radio station.

Smulyan was a baseball fanatic, and he became a quasi-hero in Seattle for buying the team from the unpopular George Argyros. However, Smulyan

¹¹ SPNW Staff, Mariners: Ownership, Organizational Timeline, sportspressnw.com/2163322/2013/mariners-ownership-organizational-timeline.

¹² David Schoenfeld, “The Top 10 Worst Owners in MLB History,” ESPN.com, June 27, 2011.

¹³ UPI Archives, “George Argyros, Principal Owner of the Seattle Mariners, Denied...,” December 1, 1981.

¹⁴ UPI Archives, “Seattle Mariners Owner George Argyros Friday Denied a Report...,” February 1, 1985.

¹⁵ SPNW Staff, Mariners: Ownership, Organizational Timeline..

¹⁶ “Mariners’ Owner Rejects \$37-Million Bid,” *Los Angeles Times* May 13, 1987.

¹⁷ Richard Sandomir. “Mariners’ Ex-Owners Make Off with Booty,” *New York Times*, June 12, 1992.

couldn't overcome the challenge of making a professional team financially viable in a smaller media market. While he was more amiable to the community and marketing was focused, he lacked the deep financial pockets necessary to build a more competitive team. His optimism that he could make baseball successful in Seattle was undercut by two financial reversals. First, he had believed that the financial penalty from the collusion lawsuits filed by the players union would be no more than \$1 million. The actual penalty was \$10.77 million. Second, payroll skyrocketed from \$8 million, when he purchased the team, to \$23 million after only two years of his ownership.¹⁸

Compounding Smulyan's financial dilemma was the lease for use of the Kingdome. He quickly came to Argyros' conclusion that the Kingdome was a substandard venue for fielding a competitive baseball team.



Two different ownership groups sold the Mariners (each time for a substantial capital gain) claiming the Kingdome prevented them from cashing in on the team

The Kingdome was a domed, multipurpose stadium built just south of the downtown area of Seattle (Sodo) in anticipation of obtaining an NFL and/or a major-league baseball franchise. Construction began in 1972 through voter-approved bond funding of \$40 million. It opened in 1976.

Over the years, very few improvements had been made. When Smulyan purchased the team in the late 1980s, he began additions such as an upgraded sound system and a new scoreboard. However, in general the overall lack of improvements led Smulyan and the other tenants of the stadium to

begin to lobby for construction of a new ballpark and to threaten relocation if this wasn't approved.

Despite significant attendance increases, and the Mariners' first winning season in 1991, revenues remained well below those of other American League teams. After steady losses under his ownership, Smulyan announced that the Mariners were for sale. It was rumored that he wanted to move the team to Tampa.¹⁹

In his announcement, on December 4, 1991, Smulyan said that the team was for sale for \$100 million. He had been ordered by Security Pacific Bank to repay a loan of nearly \$40 million or find a buyer for the team.²⁰ Smulyan said the team would be offered to local buyers first, which was required by its lease with the Kingdome. Officials in St. Petersburg, Florida, who had failed to gain a National League expansion franchise, said they were set to lure the Mariners to Florida to play in the Florida Suncoast Dome.

Independently, Slade Gorton, now in the U.S. Senate, contacted prospective purchasers, including Hiroshi Yamauchi, owner of Nintendo Co., in an effort to keep the team in Seattle.²¹

Under the terms of the Kingdome lease, local investors had 120 days to come up with a purchaser to keep the team in Seattle. Senator Gorton, in his capacity as a member of the Senate Commerce Committee, had worked to assist Nintendo, a Japanese-owned company with U.S. headquarters in Redmond, Washington, to curtail counterfeiting of their video games. Early in December 1991, he called Howard Lincoln, senior vice president of Nintendo's American division, to ask for a meeting to talk about an investment.

On December 23, 1991, Gorton received a call from Lincoln and Minoru Arakawa, head of Nintendo's American division and Yamauchi's son-in-law. Nintendo was very grateful to the United States and to the State of Washington for its successes there. If Seattle needed \$100 million to keep baseball in town, Yamauchi would contribute it out of his own pocket.²²

¹⁹ Mike McKay. "The Unlikely Champion Who Saved the Seattle Mariners," *Seattle Times* May 11, 2016.

²⁰ Larry LaRue. "Owner Scapegoat in Mariners' Financial Woes," McClatchy News Service, August 25, 1991.

²¹ Ibid.

²² McKay.

¹⁸ Glen Drosendahl. "A Group of Local Investors Announces Plans to Buy the Seattle Mariners on January 23, 1992," HistoryLink.org Essay 9562.

Gorton was thrilled with the offer, but he realized that local ownership was instrumental to keeping baseball in Seattle for the long haul. He set to work putting together a group of local investors to join Nintendo as minority partners. A key goal was to overcome opposition to foreign ownership, especially a Japanese owner. He and Howard Lincoln brought in John Ellis, then head of Puget Sound Power and Light (later Puget Sound Energy), to craft the plan.

On the brink of leaving the Northwest, the Mariners received an offer from Yamauchi to contribute \$75 million toward the purchase of the team as a gift to Seattle. Controversy ensued when some baseball traditionalists raised their voices against what they saw as selling out America's pastime to the Japanese. Major League Baseball ultimately agreed to a 60 percent acquisition by Yamauchi on condition that he limit his voting interest to 49 percent. Local investors contributed the remainder of the \$125 million total sale price.

Nintendo

On July 1, 1992, under the restrictions set forth by Major League Baseball, The Baseball Club of Seattle, LP, assumed control of the Mariners. Chuck Armstrong returned as president and chief operating officer, while the board of directors included John Ellis (chairman), Minoru Arakawa (representing Hiroshi Yamauchi, whose reluctance to fly kept him from ever attending a single Mariners game), Chris Larson, Howard Lincoln, John McCaw, Frank Shrontz, and Craig Watjen. Rumblings also began about the need for the Mariners to have a new ballpark to truly attain long-term success in Seattle.²³

The new group's first full season of control saw them begin to put the pieces in place for future Mariners success, on the field and at the box office. It began with the hiring of Lou Piniella, who would go on to become the most successful and longest tenured manager in Mariners' history.

This new ownership group would burn through \$77 million in losses during their first seven seasons and received criticism from the media and some sectors of the public over the fight to get a new ballpark

approved and built. But the singular goal of this management team was to keep the Mariners in Seattle, which they ultimately achieved. Additionally, over time, the stability of this ownership group would allow the Mariners to grow into a vital local team, as judged by positive community support, buttressed with a few outstanding seasons.

In 1993 Peoria, Arizona, finalized an agreement between the city, the Mariners and the San Diego Padres to build the Peoria Sports Complex.²⁴ This was the first spring-training site to host two major-league teams. It contained 12 practice fields, two team clubhouses, and office facilities for both teams. The site has since become a destination for Seattle fans looking to escape the wet winters of the Pacific Northwest. A 2014 upgrade, which coincided with a lease extension until 2034, renovated clubhouses, added dining space and improved the fan experience.

The 1994 season proved to be a debacle. The season was shortened by the players strike, although by game 65, Ken Griffey Jr. had already hit 30 home runs. At the time of the strike, the Mariners, despite a record of 49-63, were only two games out of first place in the American League West Division. Then the roof fell in, literally. On July 19, 1994, an hour before the Mariners were to host the Baltimore Orioles; a four-foot-long acoustical ceiling tile fell 180 feet from the roof of the 18-year-old Kingdome. Additional tiles fell and before long it was realized that all 40,000 fiberboard tiles needed to be replaced before the ballpark could be used again.²⁵

The Mariners were forced to play the last 20 games of the 1994 season on the road after the players union vetoed playing the "home" games at Cheney Stadium in Tacoma, BC Place Stadium in Vancouver, British Columbia, or some neutral site, as the union believed its members should play only in major-league venues. The extended road trip could have lasted over two months, but was shortened by the players strike, which began on

²⁴ ThebaseballPHD, thebaseballphd.wordpress.com/2013/03/26/peoria-sports-complex-20th-anniversary/.

²⁵ Jordan Miller, "King Dome – Roof Performance Failures and Ceiling Collapse," Pennsylvania State University, July 19, 1994.

²³ FundingUniverse.com, "The Baseball Club of Seattle, LP History," fundinguniverse.com/company-histories/the-baseball-club-of-seattle-lp-history/.

August 12.²⁶ It was the team's longest road trip ever – 20 games in 21 days spanning 10,425 miles. "It was the longest road trip, the biggest laundry bill and the most suitcases," [Edgar Martinez](#) said with a smile. The incident further inflamed the debate about the Kingdome's suitability as a baseball facility and the Mariners' quest for a new ballpark.²⁷

The next year, 1995, turned out to be a critical one for the Mariners, with ups and downs on the field, the return from the players' strike, playoff drama as exciting as ever seen in sports, and the off-the-field angst of Kingdome replacement votes and local politics.

It began with the suspension of the strike on April 2, 1995. Under the terms of an injunction issued by Federal Judge Sonia Sotomayor, the players and owners were to be bound to the terms of the expired collective-bargaining agreement until a new one could be reached. The start of the season was postponed for three weeks for an abbreviated spring-training period, after which the teams would play a 144-game season instead of the normal 162.²⁸

On March 30, 1994, King County executive Gary Locke had appointed a task force to assess the need for a new ballpark to replace the rapidly deteriorating Kingdome. Many feared that the Mariners would leave Seattle if a new one wasn't built. In January 1995, the 28-member task force recommended to the King County Council that the public should be involved in the financing of the ballpark. The task force concluded that a sales-tax increase of 0.01 percent would be sufficient to fund the ballpark. King County held a special election in September 1995, asking the public to approve the sales-tax increase.²⁹

The voting came amid a run to the Mariners' first playoff appearance. The run began on August 24. That day, in the first of a four-game series against the New York Yankees, Griffey blasted a two-run walk-off home run to win the game. From that day,

the Mariners went 25-11 to the end of the regular season, seemingly discovering a new hero each night. "Refuse to Lose" became the mantra of the team and its fans, as the Mariners battled from their deficit to catch the Angels and force a one-game playoff.³⁰

On September 19, while the Mariners pulled off another "Refuse to Lose" win, the King County referendum to fund a new ballpark failed by a tenth of a percentage point. It was remarkable that the vote count was so close, as polls only a month earlier had shown support from only a third of voters. The 1,082-vote margin of defeat (out of nearly half a million cast), however, had signaled a dramatic change of public opinion. County officials would meet over the next several months to draft funding plans for a new ballpark despite the ballot failure.

The team entered some of its greatest years. Under the leadership of Lou Piniella, they built their team around Ken Griffey Jr, [Randy Johnson](#), and Edgar Martinez. After the magical 1995 season and building on the momentum of the dramatic playoff series against the Yankees, the Mariners and their supporters in the community were able to pressure the Seattle City Council into a special session in which they devised a new stadium plan that sidestepped the results of the previous year's failed ballot initiative and approved construction of a retractable-roof ballpark in downtown Seattle.

On October 14, 1995, a special session of the state legislature authorized a different funding package for a new ballpark that included a food and beverage tax in King County restaurants and bars, a car-rental surcharge in King County, a ballpark admissions tax, a credit against the state sales tax, and sale of a special stadium license plate. Nine days later, the King County Council approved the funding package and established the Washington State Major League Baseball Stadium Public Facilities District to own the ballpark and oversee design and construction. Taxpayer suits opposing the legislative actions and the taxes failed in the

²⁶ Bob Condotta, "Ten years after the Kingdome tiles fell," *Seattle Times*, July 19, 2004.

²⁷ *Ibid.*

²⁸ Mark Maske, "Baseball Strike Ends," *Washington Post*, April 3, 1995.

²⁹ David Wilma, "Voters Reject a Stadium for the Seattle Mariners on September 19, 1995," *historylink.org* essay 3429, July 5, 2001.

³⁰ Jerry Brewer, "'Refuse to Lose' Season Spawned Generation of Young Mariners Fans," *Seattle Times*, December 28, 2009.

courts. The new ballpark would open less than 3½ years later.³¹

The excitement of the 1995 season carried over at the box office, as the team's attendance exceeded 2.7 million in 1996.

On September 9, 1996, the site was selected for the new ballpark, just south of the Kingdome. In late fall, several members of the King County Council asked the Mariners to consider postponing construction and the opening of the projected \$384.5 million stadium. In response, the Mariners said they would either sell the team or move it from Seattle.³²

“Reluctantly, after more than five years of work, (we) have concluded that there is insufficient political leadership in King County to complete the new stadium by 1999,” the owners said in a five-page statement that Mariners CEO John Ellis read at a downtown news conference. “This is not a bluff.”³³ After a public outcry, the King County Council voted to reaffirm its cooperation with the Mariners in building a new ballpark, and the Mariners contributed \$145 million to cover cost overruns, ending this short-lived threat.³⁴

Construction officially began on March 8, 1997, with a ground-breaking ceremony featuring Ken Griffey Jr. The construction, overseen by Mariners chief financial officer Kevin Mather, who later became president of the Mariners, continued until July 1999, when the new ballpark officially opened.

In 1999 the Mariners hosted two home openers and one stadium finale. The first home opener was the traditional Opening Day, April 5, in the Kingdome against the Chicago White Sox. On June 27 the team played its final game in the Kingdome when more than 56,000 fans watched the Mariners defeat the Chicago White Sox.³⁵ Ken Griffey Jr. hit the final home run during that game. Nearly three

weeks later, on July 15, the second home opener was played, christening Safeco Field.



Safeco Field opened in 1999 despite a failed referendum

Seattle's new ballpark was built to resemble the great ballparks of the past. It was open-air and had real grass, but also featured a retractable roof that covered the ballpark without enclosing it. The roof kept fans, 47 percent of whom come from outside the immediate Puget Sound area, protected from the wind and rain.³⁶

The 2000 season saw lots of new faces who would make positive impacts for the Mariners over the next few seasons. The key to the offseason was the trade of Ken Griffey Jr. to the Cincinnati Reds.

During 1999 Griffey had become disenchanted with the Mariners and demanded a trade. He told the club that Seattle had become inconvenient for his family, which lived most of the year in Florida.³⁷ He declined a \$148 million extension. As a 10-and-5 player (10 years in the majors, 5 consecutive years with the team), he had a right to veto any trade, and exercised that right in potential deals with the New York Mets and Atlanta Braves before agreeing to a trade to his hometown Cincinnati Reds.³⁸

The Mariners 25th season since their inception, 2001, was a remarkable year in which they tied the major-league record for wins by an American League team, with a record of 116-46. They led the majors in runs scored and fewest runs allowed. Fans adopted a slogan “2 outs, so what,” because the

³¹ Steve Campion, “Refuse to Lose: The Last 36 Games of the 1995 Mariners Season,” WA-list, September 13, 2015.

³² Glenn Drosendahl, “Safeco Field, the Seattle Mariners’ Long-Sought Stadium, Opens on July 15, 1999,” HistoryLink.org, September 11, 2010.

³³ Elliott Almond, David Schaefer, Richard Seven, Stephen Clutter, “Mariners Put Up for Sale – Owners Blame Council Members for Discussing Ballpark Delay,” *Seattle Times*, December 15, 1996.

³⁴ Ibid.

³⁵ baseball-reference.com/boxes/SEA/SEA199906270.shtml.

³⁶ ballparks.com/baseball/american/seabpk.htm.

³⁷ Dean Paton, “Fans Weep at the Idea of Seattle Sans Junior; Ken Griffey Jr.’s Desire to Leave the Mariners Has Left Many Fans,” *Christian Science Monitor*, January 7, 2000.

³⁸ Dave Sheinin, “Mariners Trade Griffey to Reds,” *Washington Post*, February 11, 2000.

Mariners were so successful scoring runs after there were two outs. They scored a franchise-record 339 after there were two outs.³⁹

The season actually began in the offseason. While they lost Alex Rodriguez to free agency, the Mariners signed Ichiro Suzuki, who had played for the Orix Blue Wave of the Japan Pacific League.⁴⁰ They followed by signing second baseman Bret Boone, an original Mariner draft pick in 1990.⁴¹



Ichiro, 2001 AL MVP and Rookie of the Year

The team had a strong lineup and deep bench. It led the league in hitting, pitching, and defense. Four starting pitchers won 15 games or more and Kazahiro Sasaki saved 45 games. The 2001 All-Star Game, played at Safeco Field, saw eight Mariners selected to play, including four starters. Ichiro Suzuki won the batting title and was voted both the American League MVP and Rookie of the Year. Bret Boone, who hit 37 home runs and drove in 141 runs, was third in the MVP voting and set a record for most runs driven in by a second baseman. Lou

Piniella was the American League Manager of the Year.

But the team lost to the New York Yankees in the American League Championship Series.

During this period, the team had the benefit of an enchanting new ballpark and a period of winning teams, so the Mariners were among the league leaders in attendance. In three consecutive years attendance exceeded 3 million, with a high of 3.27 million in 2003.

In 2004 Yamauchi ceded control of his shares to Nintendo of America for estate-planning purposes so the team could continue functioning normally in the event of his death.

Attendance remained strong in 2004, approaching nearly 3 million fans. However, performance on the field fell badly; the team lost 30 more games than in the previous season, finishing last in the American League West at 63-99.

From 2004 through 2006, the Mariners experienced losing seasons, and attendance correspondingly dropped. The decrease averaged over 250,000 fans each year. The 2007 season saw a reversal on the field (88-74, second in the NL West) and a reversal at the gate (2.67 million, up 200,000). Despite the team's improvement, there were concerns about the size of the payroll, which exceeded \$105 million. It was essential that, at a minimum, the team challenge to make the playoffs. Both the ownership and the fans were concerned about the team's performance and expected more.

Overcoming the concerns about payroll, there was hope and anticipation about the 2008 season after the Mariners' success in 2007. The owners demonstrated their endorsement by taking on extra salary, highlighted by the addition of pitchers Erik Bedard and Carlos Silva. Obtaining these players resulted in the loss of key minor-league talent.⁴² However, the team fell flat during the 2008 season, as Bedard pitched in only 15 games and Silva ended up with a 4-15 record and an ERA of 6.46.

That season, the team started slowly and never recovered, finishing with a 61-101 record, last in the American League West. The season was marred by key leadership changes, starting with the firing of

³⁹ Steve Rudman, "Mariners Revive Slogan: 'Two Outs, So What!'" SportsPressNW, April 9, 2017.

⁴⁰ Associated Press. "In a First, Mariners Sign Japan's Suzuki, an Outfielder," *New York Times*, November 19, 2000.

⁴¹ baseball-reference.com/teams/SEA/2001-transactions.shtml.

⁴² Associated Press, "Orioles Trade Bedard to Mariners for Five Prospects," ESPN.com, February 9, 2008.

general manager Bill Bavasi on June 16 and the appointment of Lee Pelekoudas, the team's vice president/associate general manager, as the interim GM. "Change is in order," Mariners CEO Howard Lincoln said. "We have determined new leadership is needed in the GM position. With a new leader will come a new plan and a new approach. A search will begin immediately for a permanent GM, and Lee will be a candidate for the position."⁴³

On October 22 Milwaukee Brewers executive Jack Zduriencik, who was most notable for his drafting skills and was credited with turning the Brewers into a playoff team, was named the Mariners general manager.⁴⁴

Fan enthusiasm had been on the wane for several years. Attendance fell below 2 million in 2011 for the first time since 1995 and dropped to as low as 1.7 million in 2013.

On September 19, 2013, Hiroshi Yamauchi died. He was 85 years old and had never attended a live Mariners game, including declining to travel from his home in Kyoto to Tokyo in March 2012 when the Mariners played a series of exhibition games there and later opened their season against the Oakland Athletics.



Hiroshi Yamauchi, is likely the only MLB owner never to see his team play

However, Yamauchi had retained titular control. His death meant Lincoln, the former Nintendo lawyer and cherished Yamauchi friend and confidant, retained almost full control and decision-making power in the organization.⁴⁵

In recent years, powered by the earning capability of Safeco Field, the value

of the Mariners had surged. The team in early 2013 partnered with DirecTV to form Root Sports NW, a regional sports network that covered six states and

was believed to add at least \$200 million to the team's value. The Mariners' official valuation would rank eighth in baseball on the annual Forbes list, nestled between the \$1.6 billion St. Louis Cardinals and the \$1.34 billion Los Angeles Angels.⁴⁶

John Stanton

This led Nintendo, which had retained majority ownership of the club, to consider selling the franchise. On April 27, 2016, a 17-member local group led by John Stanton bought a majority interest in the baseball team in a deal that valued the team at \$1.4 billion. While Nintendo sold its majority interest, it kept a 10 percent minority interest in the club.⁴⁷

Stanton, who replaced Howard Lincoln as chairman and CEO, was raised in the Seattle area. He was a wireless industry pioneer who worked with John McCaw to form the first nationwide cellular network in the 1980s. He also led Western Wireless and VoiceStream Wireless, the predecessor to T Mobile.

Marketing, Promotions and Fan Experience

Part of the character of the team has been ownership's ability to create a positive fan experience. The goal was to create a friendly and lively atmosphere at the ballpark. The team also looked to translate this atmosphere to its broadcasts, both on television and on the radio. This goal was confirmed as the team garnered excellent ratings for televised games.⁴⁸

The marketing focus actually began under the ownership of Jeff Smulyan. After he sold the club in 1991, the marketing and community focus was continually enhanced, especially as the team become ensconced in its new ballpark, enjoyed some on-field success and removed the threat of relocation.

The marketing plan included highly regarded TV commercials and unique promotions. Beginning early in their existence, the Mariners used team personnel to build its personality and improve fan recognition. Commercials were initially shown each

⁴³ Geoff Baker, "Mariners Fire GM Bill Bavasi," *Seattle Times*, June 16, 2008.

⁴⁴ Larry Stone, "M's Hire Brewers' Jack Zduriencik as GM," *Seattle Times*, October 22, 2008.

⁴⁵ Geoff Baker, "Mariners Sale: How John Stanton's Seattle Group Struck a Deal with Nintendo of America," *Seattle Times*, April 27, 2016.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Geoff Baker. "Better Baseball Means Better TV Ratings for Mariners," *Seattle Times*, September 22, 2014.

year during spring training. Examples of these ads can be seen [here](#).

On April 13, 1990, the Mariners unveiled its first mascot, the Mariner Moose. The Moose was selected after a contest in which more than 2,500 entries were submitted by children 14 and under from throughout the Pacific Northwest. The winning idea came from Ammon Spiller, a fifth-grader from Central Elementary School in Ferndale, Washington, who wrote: "I chose the Moose because they are funny, neat and friendly. The Moose would show that the Mariners enjoy playing and that they still have a few tricks up their sleeves. It shows they're having fun no matter what the situation."⁴⁹

Over the years, besides traditional ballpark fare, the team has offered several creative food items or eating establishments at the ballpark:

- The Ichiro roll, a sushi roll made of spicy tuna with black sesame seeds, wasabi, and daikon radish sprouts and named after Ichiro Suzuki.
- Edgar's Cantina, a two-level restaurant and bar located on the Home Run Porch, named after Edgar Martinez.
- In 2017, the team introduced Oaxacan chapulines, or toasted grasshoppers covered in chili-lime salt, which sell for \$4 for a 4-ounce cup.
- Ivar's, a prominent Northwest seafood restaurant that offers menu items such as clam chowder, salmon sandwich and the Ivar dog.

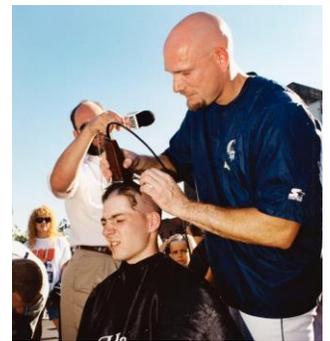
The team has always offered traditional promotions to bring fans into the ballpark, such as bat day, little league days and bobbleheads. The team has also created many unique promotions such as the following:

- Funny nose and glasses – Former Mariners outfielder Tom Paciorek was well known for his sense of humor. When the Mariners were creating their commercials for 1981, they produced a spot promoting Jacket Night that had Paciorek asking, "What am I going to do with 30,000 pairs of funny nose glasses?"

⁴⁹ Mariners.com, mlb.com/mariners/fans/mariner-moose.

The Mariners say the spot generated many calls and letters from fans wanting to know when Funny Nose Glasses Night would be. In fact, some fans came to the Jacket Night game and were disappointed, as they wanted a pair of funny nose glasses. They finally got them in 2012 when the Mariners held a special day to celebrate their 35th anniversary.⁵⁰

- Buhner Buzz – Of all the Mariners promotions, perhaps the most popular was Buhner Buzz Cut night. In a celebration of outfielder Jay Buhner's signature bald pate, all bald fans got in free, and others could get their head shaved outside the ballpark for free admission to the game. It was first held at the Kingdome in 1994 and every year through 1999, then again in 2001. Buhner even buzzed some fans himself. Over the years, more than 22,000 people took advantage of the buzz.⁵¹



Jay Buhner plying his trade

- King's Court – In 2011 the Mariners launched the King's Court. Whenever Felix Hernandez pitched, fans could buy tickets for a special section, a yellow T-shirt and a yellow "K" card. During the game, a chef brings a turkey wing to the most spirited fan in the section.
- Beard hat – With so many players (and Seattle hipsters) sporting facial hair, someone thought it would be fun to give away a knit hat with faux facial hair. Needless to say, Beard Hat Night was a hit.
- Turn ahead the clock – Inspired by the *Back to the Future* movies, in 1998 marketing director Kevin Martinez (now a club vice

⁵⁰ MarinerPR, "Tom Paciorek and 'Funny Nose Glasses Night,'" Marinersblog.com, August 31, 2012.

⁵¹ Michael Clair, "One of the Greatest Baseball Promotions: Watch Jay Buhner Shave Heads for 'Buzz Cut Night,'" mlb.com, May 19, 2015.

president) came up with Turn Ahead the Clock night. It featured the Mariners and Royals in futuristic uniforms designed with the help of Ken Griffey Jr. As ESPN recounted, the game featured the Kingdome getting renamed the Biodome for the night, a ceremonial first pitch delivered by a robot from the University of Washington, and a first pitch thrown out by James Doohan, who played Scotty on the original *Star Trek*, making his way to the mound in a DeLorean, the auto that was featured in the movies.

- Larry Bernandez – This character was a Felix Hernandez alter-ego born from a commercial released in 2011 in which Hernandez disguised himself to try to pitch more often. From this commercial, the Mariners continued to promote Bernandez, including a Larry Bernandez bobblehead giveaway, a Facebook page, and a twitter feed.
- Barry White night, August 6, 2000 – White threw out the ceremonial first pitch and was the public-address announcer for part of the game.

During the seventh-inning Stretch, following the traditional chorus of *Take Me Out to the Ball Game*, the Kingsmen’s version of the cult song “Louie” is played.

Robert Ruvkun was an employee of the Kingdome in the early 1990s when he began dancing during a game against the Minnesota Twins. He was encouraged to take the act out into the stands and became known as “Bad Dancer.” After he was no longer a Mariner employee, he continued to attend five to ten games each season and was highlighted on the scoreboard when his song was played between innings. He performed in Cooperstown at a Mariners party when Ken Griffey Jr. was inducted into the Hall of Fame.⁵²

In 2007 television color commentator Mike Blowers noticed that a spectator had dropped his fries in an attempt to catch a foul ball. He and play-by-play announcer Dave Sims sent an intern down with free garlic fries. After this occurred, the Mariners rallied

and won the game. The next game, a different spectator brought a sign to Safeco Field asking Blowers for free fries. Blowers obliged, and the M’s went on to score five runs that inning, winning 9-4. They also won the rest of the games on that homestand. Fans began asking Mike Blowers for Rally Fries and a tradition was born. (Rally Fries were retired in 2012.)⁵³

For several years through 2015, several members of the Safeco Field grounds crew dance to a popular song. The choreographed routine changed over time.



Recently Published Research

This column highlights recently published articles on topics that may interest members of the Business of Baseball Committee. If you are aware of a source that publishes articles of interest to the readership, please alert me so that I can monitor it.

Clay Collins and Brad R. Humphreys, “Contest Outcome Uncertainty and Fan Decisions: A Meta-Analysis,” *Journal of Sports Economics* 23, no. 6 (August 2022): 789-807

Outcome uncertainty represents a central, defining area of sports economic research. Contest outcome uncertainty (COU), the idea that fan expectations about game outcomes affects attendance decisions, receives substantial attention in the literature, including many papers published in this journal. The standard model of fan decisions under uncertainty generates two diametrically opposed predictions about the COU-attendance relationship, depending on fan preferences, generating tension in the empirical literature. We undertake a meta-analysis of the empirical COU literature to assess empirical support for these predictions. We identify more than 500 empirical model specifications reported in 97 COU papers. The results slightly favor the loss aversion version of the model, but the literature contains no consensus. Sport analyzed and choice of COU proxy variable have no relationship to reported results. Simple OLS and panel data methods generate much of the evidence, highlighting the importance of using causal inference methods in future research.

⁵² Kipp Robertson. “Seattle Mariners Fan Keeps His Bad Dance Alive,” mynorthwest.com, March 24, 2015.

⁵³ baseball-reference.com/bullpen/Rally_Fries.

Ekaterina Glebova, Fateme Zare, Michel Desbordes and Gábor Géczi, "COVID-19 Sport Transformation: New Challenges and New Opportunities," *Physical Culture and Sport: Studies and Research* 95, no. 1 (June 2022)

The new pandemic lifestyle advocates new rules for sport at all levels, from amateur to elite. Consequently, it has transformed the ways in which sports are performed and consumed, provoking demand for new technologies and/or the development of existing ones. This paper aims to identify, describe, and visualize the process of sport transformation as radical internal and external industry changes brought about by the COVID-19 pandemic. It is intended to qualitatively explain the current 'metamorphoses' in the field and subsequently answer the question of how the COVID-19 pandemic drastically changed all aspects of sports and physical culture. The literature and empirical dataset (qualitative open-ended written interviews, N = 147) were analysed in the spirit of grounded theory, referring to the holistic approach. The results demonstrated that the COVID-19 pandemic has had an unprecedented effect on sports by touching on all aspects, levels, and stakeholders. The paper also outlines challenges and opportunities for the industry in these extraordinary times. The key dimensions of transformation are identified and explained. The findings of this research have significant implications for the understanding of how COVID-19 gave rise to the transformation of sports in different aspects. This study adds to the growing body of research on the positive and negative impacts of COVID-19 on sports, new technologies demand, and the transformation of sports.

Michał Marcin Kobierecki, Michał Pierzgański, "Sports Mega-Events and Economic Growth: A Synthetic Control Approach," *Journal of Sports Economics* 23, no. 5 (June 2022): 567-597

This paper contributes to the current literature investigating whether hosting sports mega-events brings tangible economic benefits to the host country. Specifically, we examine whether staging the Olympic Games and the FIFA World Cups leads to observable economic growth. The research has been conducted through a quasi-experimental study in the spirit of the difference-in-differences method. The research subject includes states in which the

Olympic Games and FIFA World Cup were held between 2010 and 2016: Canada, South Africa, Great Britain, and Brazil. We found that there is no significant effect of hosting sports mega-events on economic growth.

Robert Kowalenko, "What is the Work of Sportsmen and -Women, and (When) Should it be Paid Equally?" *Sport, Ethics, and Philosophy* 16, no. 3 (2022): 254-280

Professional sport, like most human activities undertaken for pay, is subject to Article 23(2) of the Universal Declaration of Human Rights ("Equal Pay for Equal Work"). An athlete's 'work' can be variously construed, however, as entertainment/profit generation, athletic performance, or effort. Arguments in support of gender wage parity in professional sport that are based on the former two construals must rely on counterfactual assumptions, given that most audiences and performances of athletes identifying as female do not currently equal those of athletes identifying as male. But philosophical and/or scientific accounts of counterfactual conditionals of the form 'If conditions X obtained, then the entertainment value/performance of female athletes would equal that of male athletes' remain uncertain. Thinking of athletic work as effort, on the other hand, ties remuneration to a quasi-unobservable quantity, with paradoxical outcomes if varying levels of athletic or social disadvantage are taken into account. Procedural justice considerations, finally, such as equal opportunity do not yield wage equality unless we make similar counterfactual assumptions, or postulate a right to equal remuneration that is based on independent appeals to substantive justice. On either of these approaches, the philosophical case for gender wage equality in professional sport requires strengthening.

Karam Lee and Gwang Ok, "The Early Cultural Evolution of Baseball in Korea (1876-1945): Unilateral Product of Cultural Imperialism or Multilateral Process?" *The International Journal of the History of Sport* 15, no. 2 (2022): 653-70

The dissemination of sports culture is not a unilinear or unilateral phenomenon. It depends on how the recipients perceive and react to it in the context of their lives. This study aims to shed light on the complex political, social, and cultural

processes that led to the acceptance and popularization of baseball in Korea. In the era of imperialism, various modern sports cultures spread in the Korean society, but baseball emerged as the most popular. Baseball was initially introduced to Korea as a by-product of US and Japanese expansionism during the Korean Enlightenment period (1876–1910) and the Japanese colonial period (1910–1945). However, baseball's germination during the Enlightenment period lay in the self-awareness of Koreans willing to embrace it as a cultural product of Western modernity, realizing its potential to meet the physical and cultural needs of their society. Additionally, during the Japanese colonial period, baseball functioned as a channel for expressing both nationalism and youthful masculinity, being popularized in the Korean society. The international exchange between US and Japanese baseball, which was developed with active recognition of baseball acceptance within the Joseon society during the Japanese colonial period, became the vital momentum driving the popularization of Korean baseball.

Dominik Schreyer and Ansari, Payam, "Stadium Attendance Demand Research: A Scoping Review," *Journal of Sports Economics* 23, no. 6 (August 2022): 749-88

Because maximizing stadium attendance demand is of utmost importance, for both sports economists and sport management researchers, understanding the potential determinants of such demand better has become a priority in the last decades. Here, conducting a systematic scoping review, we map this previous research in terms of its characteristics, its nature, and its volume, thus offering a concise perspective on what has been previously explored, and, more importantly, what remains to be analyzed in the future. Intriguingly, we observe a lack of studies exploring data generated in both niche and women's sports, as well as in most emerging markets. Further, the field has not yet established the use of disaggregated stadium attendance data, despite notable potential methodological pitfalls.

Rob Simmons, "Professional Labor Markets in the Journal of Sports Economics," *Journal of Sports Economics* 23, no. 6 (August 2022): 728-48

This article summarises the research findings of papers published in the *Journal of Sports Economics* on the workings of professional sports

labor markets. The article covers three main themes: pay and performance, discrimination, and player mobility. The review shows what scholars have found so far and point out various gaps that researchers can fill in future work

James Tompsett and Chris Knoester, "The Making of a College Athlete: High School Experiences, Socioeconomic Advantages, and the Likelihood of Playing College Sports," *Journal of Sport and Social Issues* 46, no. 3 (June 2022): 129–140

Understandings of who plays college sports are dominated by assumptions that lack academic scrutiny. Using the Education Longitudinal Study ($N=7,810$) and multilevel modeling, this study examines the extent to which high school indicators of family socioeconomic statuses, athletic development and merit, academic expectations and knowledge, and school contexts predict the likelihood of becoming a college athlete. The authors find evidence that supports our understanding of the process of becoming a college athlete being shaped by family socioeconomic status. Still, high school sport participation characteristics, academic expectations and knowledge, and school contexts also seem to offer independent contributions to the odds of becoming a college athlete. Overall, these results suggest that college athletic opportunities are not simply a function of athletic merit, based on unique analyses of quantitative empirical evidence from a large national sample of high school students.

Ulrik Wagner and Rasmus K. Storm, "Theorizing the form and impact of sport scandals," *International Review for the Sociology of Sport* 57, no. 6 (September 2022): 821-844

Sport scandals have attracted significant interest within and beyond the sociology of sport. However, developing a theoretical understanding of sport scandals has so far been neglected. Therefore, the two-fold purpose of this conceptual paper is to outline a theoretical model for understanding the form of a sport scandal, and to construct two typical sport scandals that can assist us in theorizing and differentiating how sport scandals may have varying effects on society. In our work, we rely on insights on form formulated by the German sociologist Niklas Luhmann combined with notions of ideal types derived from Max Weber. Accordingly, scandals are described as examples of paradoxical

forms where excluded meaning re-enters to create spaces of temporary liminality. Despite their common characteristics, we are able to construct two ideal types of scandals – bureaucratic fallacy and charismatic failure – to understand why scandals may have varying impacts on the environment.



Team Ownership Histories Project

By Andy McCue

The project (<https://sabr.org/bioproj/topic/team-ownership-histories>) continues to grow and evolve.

As an example of our growth, Bruce Allardice's essay on the 1884 Richmond Virginians of the American Association is in the editing process. It's great to have a researcher of Bruce's pedigree join the project and it reminds us of our interest in going beyond the original goal of doing histories of the current 30 major league franchises. Our researchers have created pieces on franchises from the Negro Leagues, AAGPBL, defunct 19th Century teams and those from leagues that are long past. There are a lot of possibilities out there.

The newest work joins earlier essays on the Mets (Leslie Heaphy), the Boston Braves (Bob LeMoine), the Red Sox and Yankees (Dan Levitt and Mark Armour), the Indians (Dave Bohmer), the Dodgers (Andy McCue), the New York Giants (Bill Lamb), the Diamondbacks (Clayton Trutor), San Francisco Giants (Rob Garratt), Miami Marlins (Steve Keeney), Phillies (Rich Westcott), Blue Jays (Allen Tait), Mariners (Steve Friedman), St. Louis Browns (Greg Erion), both versions of the Washington Senators (Andy Sharp), the Montreal Expos (Joe Marren), the St. Louis Cardinals (Mark Stangl), Kansas City Royals (Dan Levitt), San Diego Padres (John Bauer) and the Minnesota Twins (Gary Olson).. Mike Haupert has done the Cubs before the Wrigleys and is working on the later years.

Also working on drafts are Brian Ertz (Reds to 1968), Steve West (Rangers), Nick Waddell and Jeff Samoray (Tigers), Ed Edmonds (Reds from 1968), Ken Carrano (White Sox), Gary Olson (Twins), Seattle Pilots (Andy McCue), Pittsburgh

Pirates (Joe Wancho and Blake Sherry), Colorado Rockies (Dana Berry), Houston Astros (Brian Axell), Baltimore Orioles (John Bauer) and Dennis DeGenhardt (Brewers).

That leaves the Milwaukee Braves, Atlanta Braves, Washington Nationals, Los Angeles Angels, Philadelphia/Kansas City/Oakland Athletics, and Tampa Bay Rays.

Charlie Bevis has done three 19th Century NL franchises that have left the tracks (Worcester, Providence and Troy) as well as Boston teams of the 1884 American Association and the 1890 Players league which moved into the 1891 American Association. He also did the Brooklyn Players League team of 1891. Bill Lamb has written the Newark Peppers and Indianapolis Hoosiers of the Federal League. Mike Haupert has done the Negro Leagues' Hilldale Club and is working on the South Bend Blue Sox of the AAGPBL. Duke Goldman is working on the Negro Leagues' Newark Eagles.

Anyone interested in the un-assigned teams or those of defunct franchises should contact Andy McCue at agmccue48@gmail.com.

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A Call for Submissions

The Business of Baseball Committee has more than 700 registered members. We are sure many of you are doing research that would be of interest to your fellow SABR members. Please consider sharing your work in the newsletter, which is especially well suited to preliminary versions of work you may wish to publish elsewhere. *Outside the Lines* is an excellent outlet for the publication of your research on any topic of baseball that occurs "outside" the playing field. Submissions can be directed to Mike Haupert at mhaupert@uwlax.edu.

MLB Team Employee Directory Project Update

The [Business of Baseball Committee](#) has embarked on building a historical database of major league baseball employees. Sean Lahman has been helping compile the data, and we are in the queue with

SABR's web consultant to turn our efforts into a more formal database.

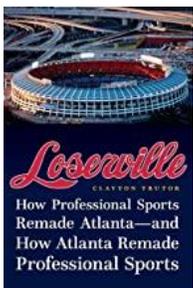
We have a terrific group of volunteers who have made this project possible: to date we have completed roughly 1500 team-seasons and have another 100 or so assigned. Nearly all the media guides that we have access to either electronically or in hard copy have been either assigned or entered (other than 2020, 2021 and 2022). If you have access to historical media guides or other sources of employee information and would be willing to either copy the key pages for others or enter the data yourself, please let us know, and we can let you know if we need the team-seasons. We are also working on tracking down additional media guide team employee pages.

Please contact project coordinator Dan Levitt at dan@daniel-levitt.com with any questions or comments.



Book Reviews

If you are interested in reviewing a book for the newsletter, please contact Mike Haupert at mhaupert@uwlax.edu. I currently have the following books in need of a reviewer: Charlie Murphy the Iconoclastic Showman behind the Chicago Cubs; Double Plays and Double Crosses the Black Sox and Baseball in 1920.



Clayton Trutor, *Loserville: How Professional Sports Remade Atlanta - and How Atlanta Remade Professional Sports*, Lincoln: University of Nebraska Press, 2022, 458 pages

Reviewed by J.B. Manheim

Professional sports franchises have long been closely associated with civic pride and regional identity; urban upheaval and its close cousin, economic development; competition among and within economic, social, geographic, and political elites; divisions of class and race; and the tension between greed and loyalty. And that is before, and after, any game makes its way onto the field, the floor, or the ice. In *Loserville*, historian Clayton

Trutor places Atlanta squarely at the center of every one of these tensions.

In the author's telling, post-war Atlanta saw itself as an agent of change in a region that still bore the scars and resentments of a long-gone era. Most of the country had moved on from the Civil War, but in many ways the South had yet to do so. But in the 1950s and 1960s, a new momentum began to take hold. This was the Atlanta of progressive Mayor Ivan Allen, yet set within the Georgia that would later select Lester Maddox as its Governor.

Established as the region's principal commercial hub as early as the 1920s through the so-called Forward Atlanta campaign, the city was guided by the influence, both beneficial and self-serving, of a socially enlightened business and professional class known colloquially as the Big Mules. Allen gave that structure added dimension by reaching out to Atlanta's large and growing African American community. For a period of time, this coalition, built upon pragmatism, assured that the city would be spared some of the violence and disorder associated with the civil rights movement of the era.

But when the Big Mules and their allies determined that Atlanta was a "Major League" city and needed to be represented in professional sports at that level, whatever even-handedness existed in the city's social evolution began to break down. Through decisions regarding the siting of major highways, expansion of the public transportation system, mixed-use real estate developments, and, yes, sports facilities, fissures appeared, and then widened. This set in place a decades-long dynamic in which poor and mostly Black residents were displaced from the center city, then in widening circles, even as Atlanta grew into a majority Black city. This was accompanied by white flight to surrounding areas and an increase in class conflict.

Through the actions of individual entrepreneurs with broad institutional support, professional sports franchises were added to the mix -- the MLB Braves, the NFL Falcons, the NBA Hawks, the NHL Flames (and later the Thrashers) -- often in the very areas of the city that had been abandoned by the most affluent of the potential fans, and seldom, in the early years, featuring African American stars who could appeal to a large enough fan base elsewhere on the socio-economic scale to sustain them. Crime, disinterest, racial resentment,

competition from SEC football and the Masters, among other well-established sporting entertainments, and poor management all combined to produce many failed seasons, few winning ones. Atlanta became, in the 1975 words of the editors of the *Atlanta Constitution*, "Loserville USA."

There was, of course, much more to the story, and Tutor tells it through a rich and thorough narrative that shines light on the principals, their motivations, their decisions and actions, and the consequences of those, whether intended or otherwise. By the end, one understands not merely the nature of the pursuit of these several professional franchises, but the pitfalls that accompanied them. One understands as well the forces that have driven both professional sports and the population that supports them further and further into the suburban periphery.

For all of that, and the book's title notwithstanding, Atlanta has on occasion, and for an extended period, risen above itself, not least in the Braves' heyday as "America's Team." As one might expect, Ted Turner, the man largely responsible for that result, even if his motives had little to do with baseball, is one of a small number of larger-than-life characters who have impacted the Atlanta sports scene -- and the city's development. Indeed, if there is a substantive criticism of the book, perhaps it is that Turner himself did not receive more attention. Also, the story seems to end too early: There is scant attention paid to the most recent decades.

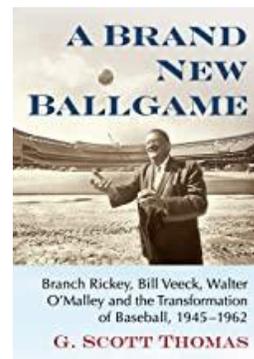
One subplot of particular interest pertains to the popularity in Atlanta of professional wrestling. Throughout much of the period of Atlanta's evolution into a major league sports hub, it was in part professional wrestling, with its frequent and well-attended live matches and its drawing power on regional television, that provided significant competition for more mainstream professional sporting events. It was hardly coincidental that Turner's development of TBS into the first cable "superstation" was built not merely on the Braves, but also on the likes of Tony Atlas, Rowdy Roddy Piper, and The Masked Superstar.

A second interesting element is the story of Hank Aaron's move from Milwaukee to Atlanta in the midst of his chasing Babe Ruth's home run record. His experience encapsulated many elements of the athletic, as well as the racial and social, dynamics of the city. Over time, Atlantans came to appreciate

the player and the man, and Aaron came to feel at home in the city. But the path was neither short nor straight.

Trutor's book is scholarly and insightful; it is a serious read. Anyone with an interest in the role of professional sports in urban development or the challenges faced by franchisees seeking commercial success within the urban landscape will find it worthwhile.

The closest comparable title may be Eric Nusbaum's 2020 book, *Stealing Home: Los Angeles, the Dodgers, and the Lives Caught in Between*, which examined the impact of the siting and building of Dodger Stadium on the communities of Chavez Ravine. Trutor's effort is perhaps less granular than Nusbaum's, but more wide-ranging, more comprehensive, and in the end, more generalizable in its lessons for the future of professional sports and, importantly, the cities that would host them.



G. Scott Thomas, *A Brand New Ballgame: Branch Rickey, Bill Veeck, Walter O'Malley and the Transformation of Baseball, 1945-1962*, Jefferson, NC: McFarland, 2021, 334 pages, (McFarlandBooks.com)

Reviewed by Bill Pruden

One of the things about baseball that makes it such a compelling sport to follow is that there are so many perspectives from which one can view the game. Indeed, the number of committees that SABR offers makes that point abundantly clear. That being said, G. Scott Thomas's *A Brand New Ballgame: Branch Rickey, Bill Veeck, Walter O'Malley and the Transformation of Baseball, 1945-1962* is a baseball book--a very intriguing one, but it is not one about the game on the field. Indeed, to those for whom the game falls off the radar from the end of the World Series in October until spring training rolls around, or those who like Rogers Hornsby, simply "stare out the window and wait for spring," I would say this book is probably not for you. And while it will likely find some interest among those fans for whom the winter weather months are a time to relish the laying of the foundation the season to come, they are not the target audience either.

Rather, Thomas's thoughtful and deeply researched work should be of greatest interest to those who long ago abandoned Justice Oliver Wendell Holmes, Jr.'s fantasy-based view that baseball was not business, at least not in the sense of interstate commerce, and thus not subject to the restraints of the Sherman Anti-Trust Act, and who as a result find themselves interested in the commercial—interstate or otherwise—machinations that are at the heart of modern baseball. Indeed, this is a book that could appropriately and profitably be used in either a business school class or a course in post-war American history. Many of its vignettes could serve as concise business cases studies, while in looking at the changing America that is the backdrop for the transformation of the game, Thomas offers at least a partial survey of the history of a changing America of the post-war era.

The book is basically a chronological look at the changing baseball landscape from 1945 to 1962, the period extending from the first post-World War II season (at least part of it) through the expansion years of 1961 and 1962. While it is an integrated narrative, each chapter has a focus, usually an individual who is at the center of that stage of the larger ongoing narrative.

Over the course of exploring the almost two-decade long period, Thomas offers fascinating and informative profiles of many of the most important off-the-field baseball figures the game has ever known. He offers a similarly interesting array of political figures whose ties to the game are less well known and in fact, baseball would likely have preferred that their paths had never crossed.

There is the famous New York powerbroker Robert Moses whose legacy, at least in the view of many, includes having prevented Walter O'Malley from building the kind of stadium that could have kept the Dodgers in Brooklyn. And for a time, the titans of the game were absolutely petrified that New York Congressman Emanuel Celler was ready and willing to abolish the reserve clause that was acknowledged by all to be the linchpin to an owner's control of his players, a control that was, in every owner's mind, absolutely critical to keeping the game as it was--or at least to their ability to make money in that game. And the owners were no more pleased to see aspiring president, Tennessee senator Estes Kefauver, flexing his populist muscles

on behalf of the players and fans with comparable threats. Indeed, in many respects that is one of the central lessons of this book. No one can come away from reading it and not believe that baseball is a business—and one that is always susceptible to—and fearful of--outside regulation.

Thomas also offers a number of interesting profiles of figures whose role in the baseball of the era are often overlooked but which were very important to the game's development during this transformative time. One of these was one-time Senator and Kentucky Governor Albert Benjamin "Happy" Chandler, who succeeded Kenesaw Mountain Landis as Commissioner upon his sudden death in 1945 and then oversaw not only the integration of the game but the first rumblings about relocation that would become central to this period.

Another important figure who gets fuller treatment than he is usually accorded is Chandler's success as Commissioner, Ford Frick, who assumed the office in 1951 when to the surprise of many, including Chandler, the commissioner's contract was not renewed. Thomas presents Frick as a comparatively benign figure and he fleshes him out in a way that clearly differentiates him from the more colorful public faces of the game like Rickey, McPhail or Veeck. But he makes clear that in his role as the owners' representative he effectively did their bidding, for instance unleashing lawyer lobbyist Paul Porter to institute a full court press on the Senate in 1960 when it looked like Kefauver's effort to reduce the number of players under a team's control might succeed. Frick also skillfully fended off the effort to develop a third major league, instead engineering the far less disruptive and ultimately highly profitable expansion moves of the early 1960s.

Another often forgotten figure to whom Thomas devotes justifiable attention is New York lawyer William Shea. While the Mets move to Citi Field from Shea Stadium has consigned Shea to the even deeper recesses of historical memory, Thomas gives him his due as not only the man whose efforts were critical to the arrival of the Mets but also as a partner in the valiant effort with Branch Rickey to bring a third major league into existence. It is an interesting tale and one which Thomas offers in a concise but informative way.

Thomas also gives readers informative profiles of owners who, in contrast to Connie Mack or the Wrigleys, have faded into the historical haze but who were important players of the era. Foremost among these was Lou Perini of the Boston Braves who would ultimately engineer the first franchise shift when, in 1953, he moved the Braves to Milwaukee, turning a once moribund franchise, one that had played second fiddle in Boston to the Red Sox for decades, into a power both at the box office and on the field—at least for a while before the team would again relocate under new ownership to Atlanta.

And there was the Griffith family, stewards of the National Pastime in the nation's capital as owners of the Washington Senators, headed first by Clark and then by his nephew Calvin, who was both passive and complaining about the various things that were making it impossible to do business in the way the family always had and wanted to continue—until he determined that the only way to do it was to relocate.

Not surprisingly, the ownership of the Yankees, especially Del Webb, while a stylistic contrast to his later successor, the blustery, attention seeking George Steinbrenner, played a central role outside of the spotlight in shaping baseball's response to changing national landscape and helping the efforts dealing with integration, relocation, expansion, and television play out successfully. And at the same time, he and co-owner, Dan Topping and their front office partner, George Weiss were making the iconic Yankees stronger than ever, leading the team to a decade and a half of unrivalled dominance.

And for all the people profiles he offers, Thomas fully understands that these people, both inside the game and out, are operating in the midst of a rapidly changing nation, one rocked by unprecedented demographic, technological, and economic changes in the post-war period. Indeed, from the developing civil rights movement, which baseball both responded to and speeded up, to the impact of the earlier Black migration to the northern cities, from the exodus of population, especially whites, from the cities to the suburbs, and the move from the northeast to the west and southwest, the times were changing in so many ways and baseball struggled to adjust. And no less critical to the transformation of the period were the technological

advances, especially in air travel and television which suddenly made it possible—in practice and in physical terms—for the National Pastime to reflect its national aspirations. All of this Thomas lays out in a very readable and understandable way, connecting the game to these changes both in terms of what it did and did not do and in the new opportunities that were opened up and the old doors that were now closed. It is in this way that it weaves baseball into the nation's historical tapestry—a changing game in a changing country.

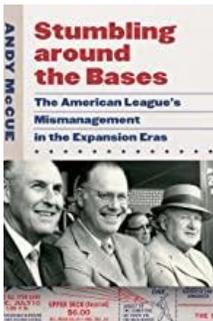
Of course, if only based on the book's subtitle one would expect illuminating treatment of Branch Rickey, Bill Veeck, and Walter O'Malley. And on that score Thomas delivers. At the same time, it could be argued that it was Larry McPhail more than Veeck who was truly a transformative figure in the game's history. Indeed, even in Thomas' sympathetic telling Veeck seems to be more gadfly than transformative figure if for no other reason than his inability to sustain things. And yet, at the same time, while never willing to compromise the integrity of the game, Veeck was also way ahead of his fellow owners in terms of recognizing that the post-war competition for the public's entertainment dollar was going to require baseball to make some changes—and no one was more open to or willing to pursue change than Bill Veeck—and in that way he was represented a marked contrast to his fellow owners.

In the end, the men—and while Grace Comiskey and at the very end of the period, Joan Whitney Payson, did intrude on the boys club that was baseball's ownership elite, it was a men's game—who owned major league baseball teams during this period were, for the most part, men of limited vision, businessmen whose major concern, indeed, sometimes seemed their only concern, was making a profit from their teams. And even those with a vision, like Branch Rickey, monitored the bottom line with great care.

In fact, while debates rage over how baseball has changed and how the players differ from generation to generation, one could make the case that it is the owners who have really changed. For most of baseball's history—and certainly during the period covered by this book—an MLB owner was someone whose primary business was his ballclub. That is very different from the modern owner who

in most cases has made his fortune elsewhere and then gone out and bought a baseball team, almost as an accessory, a commercial trophy wife—or hopefully a future trophy winner. While no one would argue that modern owners are not concerned about club finances, it seems more a matter of control than fiscal prudence for we all know that most will spend to win. That has not always been the case and some of the things that have changed the aspects of that equation, that have contributed to that difference—television being probably the single biggest one—are products of the period that this book so impressively covers.

It is for that reason, not to mention the historic stature of the men at the center of the book that this book is a valuable addition to the ever-expanding baseball bookshelf. It is also, quite simply, an enjoyable read.



Andy McCue, *Stumbling around the Bases: The American League's Mismanagement in the Expansion Eras* Lincoln: University of Nebraska Press, 2022, 208 pages

Reviewed by Stew Thornley

Whenever Andy McCue speaks or writes, I listen or read. He is one of the go-to speakers at SABR conventions, and I will remember his *Perfidy* presentation on the American League 1961 expansion that passed over cities slated for the Continental League (the title drawn from Branch Rickey's comment, "The dictionary definition of perfidy has now been confirmed").

Much about the first wave of expansion in the major leagues was covered in McCue's extensive biography of Walter O'Malley, *Mover and Shaker*, and he has now expanded on the expansion aspect with *Stumbling around the Bases: The American League's Mismanagement in the Expansion Era*.

Unlike the O'Malley biography, this one is not a tome, which I like. At about 140 pages, it allows for a quicker read while providing a comprehensive look at upheaval within the game during the period when the American and National leagues operated within the larger structure of major-league baseball (not yet capitalized as an entity) while still maintaining significant independence.

As the title indicates, the emphasis is on the American League although the book documents the infighting among owners of both leagues, unable to achieve what the National Football League was doing with its "League Think" philosophy, which allowed it to have teams battling each other in the standings while maintaining awareness of the stature of their sport.

As baseball was being surpassed by professional football, bragging rights between the leagues remained mixed through the first half of the 1960s. The National League started its dominance of the All-Star Game in 1963, but the American League held its own in the fall while having Mickey Mantle and the New York Yankees when they were still *Mickey Mantle* and the *New York Yankees*.

However, the National League was pulling away in terms of attendance – even when the American League resorted to padding its numbers by counting tickets sold rather than butts in seats – and McCue traces this back to the National League being more aggressive in integrating. The National League, at the time of the first wave of expansion, had the top players of color – Henry Aaron, Willie Mays, Ernie Banks, Roberto Clemente, Orlando Cepeda, Willie McCovey – making it better in terms of talent and style.

As for expansion, McCue characterizes a "pattern of reactive, poorly analyzed moves" by the American League." We get to meet the league's owners with illuminating and colorful profiles of those running the American League clubs in the 1950s with more profiles forthcoming as teams were added or sold. The arrival of Charles O. Finley in Kansas City and the approval of the American League for him to move the Athletics to the Bay Area is well analyzed.

Another owner coming in was Bob Short, who bought the Washington Senators, mismanaged them, and moved the team to Texas a few years later. A Minnesotan, Short in 1960 had moved the Minneapolis Lakers of the National Basketball Association to Los Angeles. McCue outlines Short's political prominence in the Democratic party, and it would be beyond the scope of the book to detail how Short was as unpopular among members of his party in Minnesota as he was among the fans of teams he had moved. Nevertheless, as a Minnesota Democrat, I

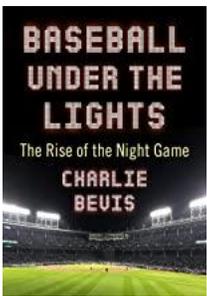
appreciate how well McCue showed what a putz Short was.

It was here in the book that I found a couple glitches. One was about John Allyn of the White Sox firing Harry Caray as an announcer. Caray remained with the White Sox beyond the Allyn regime, so I was confused by that. Perhaps it was a Steinbrenner-Martin type of thing with Allyn rehiring Caray, but, if so, it would have been nice to have that explained.

Also, McCue notes that Bob Short gave up a couple of good-glove infielders (Ed Brinkman and Aurelio Rodriguez) to get Denny McLain from the Tigers but leaves out the most significant player the Senators sent to the Tigers: right-hander Joe Coleman.

Beyond that, though, I got a lot out of the book in terms of learning and enjoyment. I trust McCue's research, and it is backed up by the endnotes. Here I will mention an issue I have not with the author, but with the publisher. University of Nebraska Press is not alone in its style for notes. It separates the endnotes by chapter but doesn't note the name of the chapter in this section. I flip back and forth between the text and notes, and I appreciated how a different publisher had both the chapter number and name, making the back-and-forth easier to find the relevant citation.

Any criticisms I have are minor. McCue, by his exemplary past works, creates high expectations for readers. That's not an easy thing to live up to, but he still comes through every time as he does with this book.



Charlie Bevis, *Baseball Under the Lights: The Rise of the Night Game*, Jefferson, NC: McFarland, 2021, 239 pages, (McFarlandBooks.com)

Reviewed by Gabe Schechter

Several decades have passed since the major leagues reached a steady level with two-thirds of all games being played at night. It was not always thus; a half-century had elapsed since the first major league night game. Why did it take so long for MLB to find its optimal mixture of day and night games? That is the essential question tackled by Charlie Bevis in

Baseball Under the Lights: The Rise of the Night Game.

This comprehensive and illuminating study is the third undertaken by Bevis to untangle the eternal mystery of scheduling, with previous books on Sunday baseball and doubleheaders. Both of those practices affected the development of night baseball. Because the basic economic building block of baseball in the 20th century was ballpark attendance, nothing was more important than scheduling. The history of night games is essentially the history of baseball as a business, as Bevis amply demonstrates.

In the first six chapters, Bevis goes back to the 19th century to show why it took so long for baseball magnates to look at night games as a remedy for long-standing obstacles to increased attendance. He traces baseball's growth as the national pastime and the attendant belief that some things about it were sacred, including day baseball. Supplying context is Bevis' strength, and his emphasis on civic boosting as a reason for a city to aspire to major league status in the first place helps explain not only why owners were resistant to night baseball in the 1930s but also why night games flourished so much earlier in the minor leagues. By that time, the same ten cities had occupied the majors for three decades, and smaller cities took on the role of boosting their status through minor league teams.

Bevis does a fine job of juggling the various factors at play in the tug-of-war between advocates of widespread night baseball and those clinging to the status quo. It isn't easy sorting them out, for instance the great irony that Larry MacPhail, who brought lights to Crosley Field and Ebbets Field, became the loudest voice insisting that limiting night baseball to a dozen or so games a season was vital in preserving its special status.

That single anomaly is representative of the main problem that impeded the growth of night baseball: MLB owners have almost always been individuals whose self-interest outweighed considerations of common good. The two leagues developed different policies, individual cities had curfews and other restrictions, and even long after it was proved that night games multiplied attendance, it was difficult to achieve a unified approach.

Bevis also expands our understanding of the role played by companies who developed new lighting

systems and whose business competition (i.e. the temptation to install cheaper but less efficient systems) influenced so many individual teams' history of night baseball. His coverage of the "Green Light Letter" and the issue of night baseball during World War II is thorough and (pun intended) illuminating.

The Chicago Cubs and Wrigley Field are, of course a very special case. I do wish that Bevis had said more about how Phil Wrigley's willingness to install lights in 1942 evaporated by the end of the decade. I also wish he had said more about Johnny Vander Meer's no-hitter in the first night game at Ebbets Field and how it might have been influenced by unfamiliar lighting. I have a few quibbles like that, but they are only that, a few extra cherries I wanted on top of a tasty and filling sundae.

BUSINESS OF BASEBALL COMMITTEE

The Business of Baseball Committee co-chairs are Dan Levitt dan@daniel-levitt.com, and Mike Hauptert mhauptert@uwlax.edu, who edits *Outside the Lines*. The committee's website is at <http://research.sabr.org/business/>. Stay in touch with the site as we improve it and add content.

100 Years Ago

Over a Century in the Making:

*Myths and Misconceptions About Major League
Baseball's Antitrust Exemption - Part I*

by Ed Edmonds

In the spring 2022 issue of *Outside the Lines*, Michael Hauptert, editor and co-chair of the Business of Baseball Committee, contributed an excellent article, "100 Years Ago: *Federal Baseball Club v. National League*, covering the trilogy of cases that created and perpetuated baseball's antitrust exemption, the birth and economic value of the reserve clause, and the Supreme Court's treatment of antitrust and other professional sports that do not enjoy baseball's special legal treatment. It is, of course, a good time to consider the centennial of the *Federal Baseball* case and the 50th anniversary of the *Flood* decision, the third case in the trilogy because of their historical significance and the continuing vitality of the exemption.

This two-part article is the outgrowth of my presentation of the Supreme Court trilogy for the

Inaugural Online Virtual Baseball Conference and for the November 2022 annual meeting of the Halsey Hall SABR Chapter in Minneapolis. My goal is to add a few details to Mike's fine treatment and to hopefully not duplicate what he has written in that article or contributed to as one of the project editors to the outstanding Century Committee's Baseball and the Supreme Court webpages posted this summer on the SABR website.

My observations are based on 35 years of teaching these three cases in a sports law seminar at four different law schools. Because these cases have long been heavily criticized as either incorrectly decided in 1922 or erroneously allowed to stand in 1953 and 1972, I devoted many hours to exploring these cases in detail, the commentary and scholarly literature, and their legacy. What I offer in this article is the product of that work because I have come to believe that Justice Oliver Wendell Holmes' decision is misunderstood when applying the most careful reading of his opinion in the context of antitrust jurisprudence of a century ago, together with contemporary material available to the justice including the lower court decisions, the briefs, and the oral argument before the Supreme Court. I will support my observations with quotations supporting Holmes' analysis. Further, the misunderstandings about the *Federal Baseball* opinion were compounded by errors and mistakes in interpretations by the Court in *Toolson* and *Flood*. In turn, these myths and misconceptions compounded the difficulties of following *Federal Baseball* as binding precedent by lower courts. The first part of this article will focus on the *Federal Baseball* decision. Part two (forthcoming in *Outside the Lines*, spring 2023) will consider *Toolson* and *Flood*.

Introduction

The foundation for any discussion of the three decisions is an introduction to American antitrust law. The Sherman Act was originally enacted in 1890, and the first sentence of section one is "Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal." The initial sentence of section two begins "Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or

persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony . . .” A significant incentive for plaintiffs is that all damages are trebled.

Three elements must be proven to establish a violation of section one. First is the requirement of the joint behavior of multiple parties—the “combination” or “conspiracy.” The second element is a restraint of commerce or trade. In a series of cases including *United States v. Addyston Pipe & Steel Company*,⁵⁴ *Standard Oil Co. of New Jersey v. United States*,⁵⁵ *United States v. American Tobacco Company*,⁵⁶ and *Board of Trade of City of Chicago v. United States (Chicago Board of Trade)*,⁵⁷ the Supreme Court fashioned the “rule of reason” test. Because all contracts restrain trade, the Court adopted the prevailing common law rule in 1890 that only unreasonable restraints were proscribed by the Sherman Act. Thus, for decades antitrust litigation typically involved an initial consideration of the plaintiff’s claimed anticompetitive effects of the commercial activity before shifting the burden



Senator John Sherman, author of the eponymous antitrust act

to the defendant’s arguments about the procompetitive effects of their activity. Third, the burden shifts back to the plaintiff to show that a less restrictive alternative is available or that the restraint is not reasonably necessary to support defendant’s

procompetitive needs. Third, the restraint must involve interstate commerce in accord with Article 1, Section 8, Clause 3 of the United States Constitution. Section two differs in that individual or concerted behavior can prompt a violation and

both monopolization or attempted monopolization is illegal.

Federal Baseball - Trade or Commerce?

For the past century most commentators have argued that Holmes’s opinion focused on the third element - the lack of a showing that the facts did not involve activity that involved interstate commerce. However, a closer reading of the opinion would suggest that failure to prove the second element is the more significant focus of the decision. Holmes stated in the fourth paragraph of his short five paragraph opinion – “*As put by the defendants*, personal effort, not related to production, is not a subject of commerce. That which in its consummation is not commerce does not become commerce among the States because the transportation that we have mentioned takes place.”⁵⁸ Early in my teaching career, I decided to investigate what Justice Holmes meant by the phrase “as put by the defendants.” This led to a more careful reading of the briefs filed for the defendants, counsels’ oral arguments, and the previous lower court decisions to determine what it was in the defendants’ argument that Holmes found persuasive.

Counsels’ Position

The Brief on Behalf of the Defendants in Error was filed by attorneys George Wharton Pepper, Benjamin S. Minor, and Samuel M. Clement, Jr. A key factor in their argument appears on page 46 of the brief:

In the first place, the making of money out of the local output of human effort and skill, independently of any relation to the production of any article of commerce, is not interstate commerce and does not become such merely because of the incident of interstate travel.

...

(a) *Personal effort, not related to production, is not a subject of commerce; and the attempt to secure all the skilled service needed, for professional baseball contests is not an attempt to monopolize commerce or any part of it.*

⁵⁴85 F. 271, 294 (6th Cir. 1898), *aff’d* 175 U.S. 211 (1899).

⁵⁵221 U.S. 1 (1911).

⁵⁶221 U.S. 106 (1911).

⁵⁷246 U.S. 231 (1918)(“The true test of legality is whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition.”(Justice Brandeis)).

⁵⁸259 U.S. 208.

It is believed that in no decided case has it ever been held that personal effort, considered apart from production, is a subject of commerce.

The authors of the brief cited many cases to support their position. Although the cases often mixed the interstate nature with “trade or commerce,” the language of one of the cited decisions, *Metropolitan Opera Company v. Hammerstein*,⁵⁹ supports my proposition that “trade or commerce” is an independent determination separated from whether or not it is interstate in nature – “The production of opera or other theatrical exhibition before an audience in exchange for the price of tickets involves none of the elements of trade or commerce as commonly understood.”⁶⁰

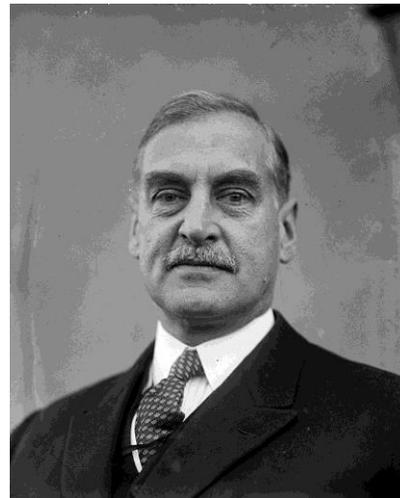
In addition to the many other cases cited in their brief, counsel also cited the first sentence of section 6 of the Clayton Act of 1914 – “The labor of a human being is not a commodity or article of commerce.” Thus, they argued that “Playing baseball, whether for money or not, is a striking instance of human skill exerted for its own sake and with no relation to production.”⁶¹

The full language of the Clayton Act is worthy of brief consideration –

The labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.⁶²

Section Six was passed in large part as a reaction to Supreme Court cases holding that labor organization, by their very nature, could violate Section One of the Sherman Act because they

sought to enter into contracts with employers, by a “combination in the form of trust or otherwise, or conspiracy.” Note, however, the very explicit language that supports Pepper’s position that “labor . . . is not a commodity or article of commerce,” and the Clayton Act was passed as an antitrust law now codified in title 15 of the United States Code. Although the *Federal Baseball* case did not involve a labor organization, the language of the Clayton Act supports the argument that a central part of the case, the playing of a baseball game or “labor,” was explicitly not “trade or commerce,” the second element of a Sherman Act case.



George Wharton Pepper

Pepper followed these statements by quoting language from *American Baseball Club of Chicago v. Chase*,⁶³ the “only case involving Organized Baseball,” – “I cannot agree to the proposition that the business of

baseball for profits is interstate trade or commerce, and therefore subject to the provisions of the Sherman Act.” Pepper followed this with the *Century Dictionary* definitions of commerce and commodity quoted in the *Chase* decision before concluding this section of the brief by quoting the following language from *Chase* – “Baseball is an amusement, a sport, a game that comes clearly within the civil and criminal law of the State, and is not a commodity or an article of merchandise subject to the regulation of Congress on the theory that it is interstate commerce.”⁶⁴

Pepper’s recollection of the *Federal Baseball* case in his autobiography *Philadelphia Lawyer* drives home the point of his argument:

The situation was dramatic. The courtroom was full of interested onlookers [;] . . . I argued with much earnestness the proposition that personal effort not related to production is not a subject

⁵⁹147 N.Y.S. 532 (1914).

⁶⁰Brief on Behalf of the Defendants in Error, 53.

⁶¹*Ibid.*, 47.

⁶²Act of October 15, 1914, ch. 323, § 6, 38 Stat. 731, codified as 15 United States Code § 17.

⁶³149 N.Y.S. 6 (N.Y. Sup. 1914).

⁶⁴Brief on Behalf of the Defendants in Error, 60-62.

of commerce; that the attempt to secure all the skilled service needed for professional baseball is not an attempt to monopolize commerce or any part of it; and that Organized Baseball, not being commerce, and therefore not interstate commerce, does not come within the scope of the prohibitions of the Sherman Act. In due course the Court decided in accordance with this contention and affirmed the judgment of the court below. The opinion of Mr. Justice Holmes . . . is a model of conciseness.⁶⁵

Pepper was interviewed in November 1953 in the aftermath of the *Toolson* decision by Lee Allen for *The Sporting News*. Pepper felt that little had changed since *Federal Baseball* was originally litigated –

I knew that Justice Holmes had a keen appreciation for a well-turned phrase . . . And I thought that if I could implant such a phrase in his mind, it might affect the court's decision. The phrase I selected was 'personal effort, not related to production, is not a subject of commerce.

Apparently I was successful because that same phrase occurs word for word in the Holmes decision. It seems to me that this is as true today as it ever was, that baseball is not engaged in producing anything. If that is the case, then baseball is not commerce, and the radio and television matters are immaterial.⁶⁶

Lower Court Decisions

In addition to Justice Holmes' reliance on Pepper's argument regarding "trade or commerce" in his short opinion, the jurist also relied heavily on the Court of Appeals decision. In paragraph three, Holmes stated that "The decision of the Court of Appeals went to the root of the case and if correct makes it unnecessary to consider other serious difficulties in the way of the plaintiff's recovery. . . . we are of the opinion that the Court of Appeals was right."⁶⁷ Thus, Holmes felt no need to repeat the detailed treatment of both the facts and the legal

issues from the lower court opinion that he and the Court fully endorsed.

In this section of my article, I want to discuss the Court of Appeals decision first. After that discussion, I will summarize the earlier lower court cases.

Justice Holmes' Opinion - Court of Appeals Decision

The Court of Appeals for the District of Columbia reversed the decision of the Supreme Court of the District of Columbia, a federal trial court, after the conclusion of the trial in 1919, the third time that the Federal Baseball Club of Baltimore filed a complaint in a federal district court.⁶⁸ The appellate court decision was written by Chief Justice Constantine J. Smyth, who served on the court from 1917-1924. Smyth framed the issue and his holding in a manner fully acceptable to Holmes. Holmes restated the issue in the final sentence of the first paragraph of his opinion – "It is alleged that these defendants conspired to monopolize the base ball business, the means adopted being set forth with a detail which, in the view that we take, it is unnecessary to repeat."

Holmes turned to the lower court holding in the first and last sentences of the third paragraph of his Supreme Court opinion – "The decision of the Court of Appeals went to the root of the case and if correct makes it unnecessary to consider other serious difficulties in the way of the plaintiff's recovery. A summary statement of the nature of the business involved will be enough to present the point. . . . But we are of opinion that the Court of Appeals was right." Thus, Justice Holmes suggested that if one wanted a fuller knowledge of the case, the issues, and the holding of the highest court, you needed to go read the Court of Appeals decision. Future commentators rarely took this step based on the lack of treatment of that opinion in their writings with one really important exception – Judge Smyth stated in his opinion that "(t)he act [of playing baseball] is not trade or commerce; it is 'sport.'" That quotation, as seen below, is often attributed to Justice Holmes, but it was actually Smyth's statement.

⁶⁵George Wharton Pepper, *Philadelphia Lawyer: An Autobiography* 359 (1944).

⁶⁶Lee Allen, "Radio and Video Have Not Altered Game, Says Pepper," *Sporting News*, November 25, 1953, 4, col. 4.

⁶⁷259 U.S. 208.

⁶⁸National League of Professional Baseball Clubs v. Federal Baseball Club of Baltimore, Inc., 269 F. 681 (Ct. App. D.C. 1920).

After a lengthy discussion of the parties to the litigation and the factors behind the dispute, Smyth provided a concise statement of the issue – “Did the giving of exhibitions of baseball, under the circumstances disclosed in the record, constitute trade or commerce within the meaning of the Sherman Act? If it did not, then the act does not apply, and the appellee has no right to invoke its provisions.”⁶⁹

Smyth’s written discourse on trade is worth quoting in detail –

The word ‘trade,’ in its broadest signification, includes, not only the business of exchanging commodities by barter, but the business of buying and selling for money, or commerce and traffic generally.’ (citation omitted) It means ‘the buying as well as the selling of property.’ (citation omitted) Webster’s Dictionary defines trade as ‘the act or business of exchanging commodities by barter; the business of buying and selling for money; commerce; traffic; barter’-- and says that ‘Commerce, in its simplest signification, means exchange of goods. * * * It may be said to be trade, traffic, or exchange between different places and communities.’ And according to the Century Dictionary, commerce is defined as ‘interchange of goods, merchandise or property of any kind; trade; traffic.’ ‘Commerce, briefly stated, is the sale or exchange of commodities.’ (citations omitted)

...

The business in which the appellants were engaged, as we have seen, was the giving of exhibitions of baseball. A game of baseball is not susceptible of being transferred. The players, it is true, travel from place to place in interstate commerce, but they are not the game. Not until they come into contact with their opponents on the baseball field and the contest opens does the game come into existence. It is local in its beginning and in its end. Nothing is transferred in the process to those who patronize it. The exertions of skill and agility which they witness may excite in them pleasurable emotions, just as might a view of a beautiful picture or a masterly performance of

some drama; but the game effects no exchange of things according to the meaning of “trade and commerce” as defined above.

...

If a game of baseball, before a concourse of people who pay for the privilege of witnessing it, is trade or commerce, then the college teams, who play football where an admission fee is charged, engage in an act of trade or commerce. But the act is not trade or commerce; it is sport. The fact that the appellants produce baseball games as a source of profit, large or small, cannot change the character of the games. They are still sport, not trade.”

Holmes’s reliance on Smyth’s lengthier discourse on the same point is key to understanding the decision. Playing baseball simply was not “trade or commerce” and the interstate travel of teams from city to city did not change that underlying fact as far as both courts were concerned. Because “commerce among the several States,” a requirement of the United States Constitution’s commerce clause as a foundation for federal involvement, is based upon the Sherman Act’s requirement of a “restraint of trade or commerce,” the second element necessary for a violation of the act, baseball’s failure to satisfy that element was not changed into a potential violation of the act by the interstate travel of the teams to play games.

Prior Federal Baseball Litigation (1915- June 1917)

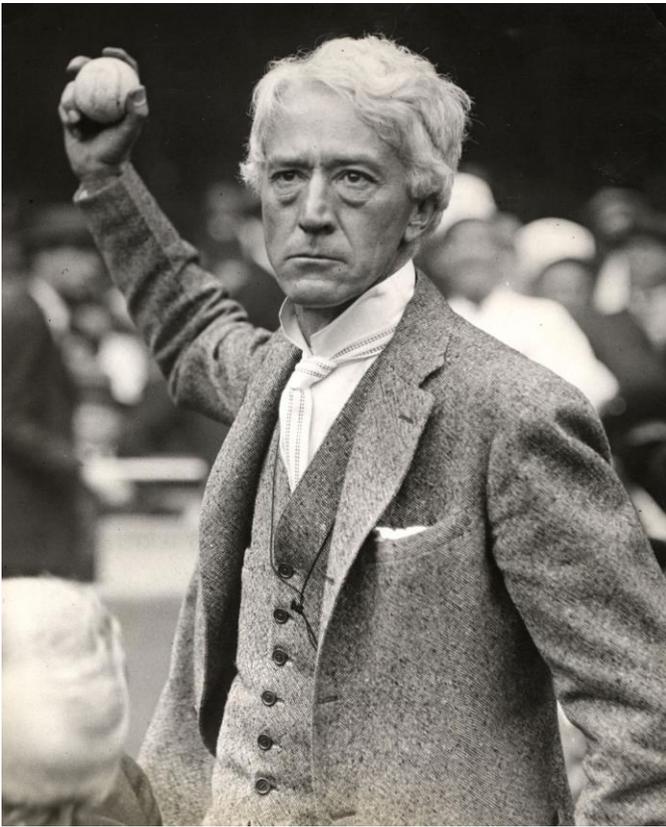
A quick summary of some important points involved in early litigation between the Federal Baseball team of Baltimore and initially the National Commission, the American and National Leagues, and their member clubs, and later the post-Peace Agreement addition of three Federal League officials follows. Understanding more about these earlier cases also informs commentators about the facts at issue and the manner that these courts considered the legal outcome.

Northern District of Illinois

Seven years prior to Justice Holmes’ decision for the Supreme Court, before the Federal League’s second and final season on January 5, 1915, the Federal League filed a lawsuit in the United States Court for the Northern District of Illinois claiming

⁶⁹*Ibid.* at 683.

that the National Agreement and the National Commission unreasonably restrained trade through practices including the reserve and blacklisting system in violation of the Sherman Antitrust Act. The 1915 litigation had been assigned to Judge Kenesaw Mountain Landis, noted for his enormous antitrust fine of John D. Rockefeller in the *Standard Oil Trust* case. Landis, however, was also a baseball fan who regularly attended Cubs and White Sox games. A trial was quickly held in late January with four days of hearings. Landis considered the evidence and testimony for the entire 1915 baseball season when the economic losses became too much for the Federal League owners forcing the Peace Agreement that the Baltimore owners would not accept.



Judge Kennesaw M. Landis, a mountain of a man
SABR's 1915 Federal League Case Files ([link](#)) contains the complaint and many affidavits submitted to Judge Landis. Page 21 of the complaint asserted that

The National Agreement, said rules and regulations, said National Commission and said organized baseball, herein, are each and every of them contrary to, and in violation of, the common law, the statutes of the various States in which said organized baseball and the

constituent members thereof carry on its and their respective businesses and in contravention of the anti-trust and anti-monopoly statutes of the United States of America . . .⁷⁰

The complaint also asserted that entities listed above created a monopoly. Notice that the complaint listed violations of both state and federal trade restraint statutes. In fact, the existence of state trade restraint laws would be asserted and rejected by the trial court, the appeals court, and the Supreme Court in the *Flood* case.

The common understanding of Judge Landis' decision to delay deciding the case before him was his hope that the parties would reach an out-of-court settlement, and, that if he was forced to rule, he would have to decide in favor of the Federal League. If he had felt that he could resolve the matter as Justice Holmes would seven years later concluding that the Sherman Act did not apply, why did he not proceed in this manner in 1915?

Eastern District of Pennsylvania

Nathaniel Grow in his outstanding 2014 book *Baseball on Trial: The Origin of Baseball's Antitrust Exemption*, the most comprehensive treatment of the *Federal Baseball* litigation, argues strongly that "Not only have a number of important details regarding the case been widely overlooked—most existing analyses completely omit any mention of Baltimore's 1917 trial in Philadelphia . . ."⁷¹ Grow is certainly correct, and I encourage readers to take a look at his treatment of this aspect of the long history of the *Federal Baseball* litigation.

After the Baltimore syndicate, headed by president Carroll Rasin, refused to accept the final result of the Peace Agreement brokered in 1915 with respect to the Terrapins, they filed a lawsuit on March 16, 1916, in the District Court for the Eastern District of Pennsylvania. The complaint was similar to the one that the Federal League had filed on January 5, 1915. Now, however, the complaint added Federal League President James Gilmore and the Federal League owners who supported the Peace Agreement. A jury trial before Judge Oliver B. Dickinson took place over a year later, starting on Monday, June 11, 1917. Grow details the testimony as well as the surprising request to dismiss made by

⁷⁰Bill of Complaint, 21.

⁷¹Grow, *Baseball on Trial*, 3.

Stuart Janney, counsel for the plaintiff Baltimore group. At the time of the dismissal Janney claimed that “the representatives had not entered into a conspiracy to destroy the plaintiffs’ business,” a conclusion that he would later disavow for the position that his involvement in the case as counsel was severely compromised because “the defense was based upon circumstances in which [he] personally had taken part.”⁷²

Supreme Court of the District of Columbia

The Baltimore group did not wait long to initiate a new lawsuit in the Supreme Court of the District of Columbia, a federal district court and trial court. On September 20, 1917, new counsel William L. Marbury of Baltimore and Charles A. Douglas of the District of Columbia filed a new action against the American League, the National League, the sixteen individual teams, and James Gilmore, Charles Weeghman, and Harry Sinclair of the Federal League. The new trial would not begin until March 25, 1919, before Associate Justice Wendell Phillips Stafford. Nathaniel Grow covers the trial in great detail in chapters seven and eight of his book, relying significantly on the transcript of the proceedings.

One interesting point was a strategic change from the Philadelphia trial. Two counts were presented instead of one – first, the peace agreement put together by all of the defendants constituted the real source of their antitrust charge under Section One of the Sherman Act, while the monopoly created by the National Commission and the business practices of the two established leagues placed the new league in an impossible competitive position in violation of Section Two. The trial proceeded with a mixture of legal questions for Justice Stafford and factual questions for a jury to ultimately decide. As Grow recounts, the issue of the application of the Sherman Act came after both sides moved for directed verdicts holding their arguments on the legal issue until numerous witnesses had been called to discuss the actions that supported the Federal League’s two counts. Pepper offered a number of arguments, including an analysis of both the *Hammerstein* and *Chase* cases that would be cited prominently in their United States Supreme Court briefs discussed above. Ultimately, the jury, much to Pepper’s chagrin, delivered a verdict for

the Baltimore Federal League team with Stafford resolving the legal issues in the plaintiff’s favor. The jury damages award of \$80,000 was trebled to \$240,000.

Commentary Supporting Holmes’ Decision

In this section of the article, I want to offer observations and quotations from a number of commentators supporting Holmes’ decision as correctly rendered at the time based upon the prevailing legal doctrines.

Nathaniel Grow, Baseball on Trial

Nathaniel Grow, in the introduction to his book, offers that “ultimately, the book concludes that many of the common criticisms of Justice Holmes’s opinion in *Federal Baseball* are unjust, as the decision was consistent with the prevailing judicial precedents of the day, and reflected several critical tactical mistakes Baltimore’s counsel committed throughout the process.”⁷³

Robert Jarvis and Louis Schiff, Baseball and the Law: Cases and Materials

Jarvis and Schiff published a 1014-page casebook for use in law school classes. In Part C of Chapter 1 (Baseball and the Nation’s Anti-Trust Laws), they reprint the opinions in *Federal Baseball*, Toolson, and *Flood* as well as numerous notes.⁷⁴ In a review published in the *Oregon Law Review* I wrote that the authors stated that the case “has been severely criticized” while quoting from two outstanding student comments, one in 1937 and the other in 1953 issues of the *Yale Law Journal*. Support for my position appears in their *Teacher’s Manual* – “Justice Holmes understood the antitrust laws to apply to physical products. Because playing baseball does not result in a tangible product, it is not surprising that he felt the antitrust laws could not apply. Subsequent courts, of course, have been much more liberal in defining the word ‘product.’”⁷⁵

Gary Hailey, “Anatomy of a Murder: The Federal Leagues and the Courts,” in National Pastime

Gary D. Hailey, an attorney with the Federal Trade Commission, wrote a detailed treatment of the Federal Baseball litigation in Washington, D.C.

⁷³Grow, *Baseball on Trial*, 3.

⁷⁴Jarvis & Schiff, *Baseball and the Law*, 50-77.

⁷⁵Jarvis & Schiff, *Teacher’s Manual*, 14.

⁷²Grow, 113.

courts relying in large part on the transcript of the trial before Judge Stafford and Chief Justice Smyth's opinion. His article appeared in the spring 1985 edition of *The National Pastime* and is reprinted in *SABR 50 at 50: The Society of American Baseball Research's Fifty Most Essential Contributions to the Game*.

Hailey also quoted Pepper's autobiography, as I did above, and offered the observation that "a close reading of that language [where Smyth concludes that baseball and college football are "still sport, not trade"] and the rest of Chief Justice Smyth's opinion shows that the key to the decision was not the fact that baseball was a sport. The more crucial fact was that baseball — as well as the practice of law or medicine, the production of grand opera, and the other nonsporting activities cited in the opinion — was not commerce."⁷⁶ Hailey also concluded that "Given the legal doctrines of its day, the *Federal Baseball* case was correctly decided. The courts of that era applied the federal antitrust laws only to businesses that were primarily engaged in the production, sale, or transportation of tangible goods."⁷⁷

Harold Seymour, "Ball, Bat and Bar"

In an article published in the *Cleveland-Marshall Law Review*, Harold Seymour supports Pepper's position and Holmes's actual language in his opinion —

What has been the position of the court with respect to organized baseball? The key case, of course, is *Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs* . . . in which Justice Holmes ruled that the business of giving baseball exhibitions for profit was not 'trade or commerce in the commonly-accepted use of those words,' because 'personal effort, not related to production, is not a subject of commerce'; nor was it inter-state, because the movement of clubs across state lines was merely 'incidental' to the business."⁷⁸

Justice Samuel Alito, "The Origin of the Baseball Antitrust Exemption"

More recently, Associate Justice Samuel Alito wrote that "In truth, as we shall see, Justice Holmes's unanimous opinion for the Court represented a fairly orthodox application of then-prevalent constitutional doctrine."⁷⁹

After a detailed analysis of the decisions of the Washington, D.C. courts, Justice Alito asked "So what should we think about Holmes' opinion in the *Federal Baseball* case? To many, the answer is 'not much.' It has been pilloried pretty consistently in the legal literature since at least the 1940s." After repeating many of those critiques of the opinion, the justice concluded —

Only very recently have some scholars given Holmes' opinion less caustic reviews. For example, Jerald Duquette's 1999 work on baseball and antitrust finds Justice Holmes' reasoning 'consistent with Progressive Era jurisprudence regarding the treatment of 'incidental' interstate transportation.' Perhaps the best defense of Holmes was published by this Society: in "Antitrust and Baseball: Stealing Holmes." Kevin McDonald argued that the *Federal Baseball* case was 'scorned principally for things that were not in the opinion, but later added by *Toolson* and *Flood*.'

This assessment seems to me to be accurate. In 1922, the Court saw the Commerce Power as a limited power that did not extend to all 'economic . . . activities that have a substantial effect of interstate commerce.' (footnote omitted). This approach forced the Court to draw fine - some would say arbitrary - lines. Those who think poorly of this entire enterprise will obviously think poorly of the *Federal Baseball* case as well. But that decision is no less defensible than Holmes' *Northern Securities* (footnote omitted) dissent of the Court's decisions in cases such as *E.C. Knight* and *Hooper*.⁸⁰

Lionel Sobel, Professional Sports & the Law

In 1977, Lionel Sobel published one of the first scholarly treatments of sports law. After his discussion of the Gardella case that I will address in part 2, he wrote — "Though *Federal Baseball* seems to have been decided correctly in its time, baseball

⁷⁶Hailey, *Anatomy of a Murder*, 73.

⁷⁷*Ibid.*

⁷⁸Seymour, 540.

⁷⁹Alito, 183.

⁸⁰*Ibid.*, 193.

grew substantially between 1922 and the late 1940s, and relevant principles had changed as well.”⁸¹

Mitchell Nathanson, Who Exempted Baseball Anyway?

Mitchell Nathanson, in the second of his lengthy and detailed treatments of the antitrust trilogy, pushes beyond the position that I am advancing in this piece, and it is worthy of careful consideration. First, Mitchell stated the following based on his analysis of the briefs and arguments presented by George Wharton Pepper – “As is common knowledge, Pepper was ultimately persuasive: the Court not only ruled in favor of Organized Baseball, it adopted several of Pepper’s arguments nearly verbatim. (footnote omitted) Pepper was particularly proud of his achievement in not only convincing the Court of his arguments, but in putting his words in their mouths.”⁸² After quoting Allen’s 1953 *Sporting News* article, as I did earlier in this article, Mitch argues that a fourth argument advanced by Pepper really demands greater attention and ultimate acceptance: “that the Sherman Act should not be construed to apply to a combination absolutely essential to the existence of so obviously a wholesome and popular sporting event as the world’s series.” I strongly encourage readers to look at Mitch’s policy argument, one that has seen some past Congressional attention that would have granted baseball’s antitrust exemption to other professional sports.

John Weistert and Cym Lowell, The Law of Sports

Finally, let me turn to the writing of John Weistert and Cym Lowell, who authored perhaps the most important classic treatise on sports law. Weaving the text of Holmes’ opinion into their summary, they offered that “in addition to finding that the activity lacked the essential interstate character, the Court also concluded that it was not ‘commerce.’ In the Court’s view, ‘personal effort, not related to production, is not a subject of commerce.’ Both of these grounds were substantially undermined in the next thirty years.”⁸³

In part 2 of this article I will begin with Weistert and Lowell’s analysis of the changing nature of

antitrust jurisprudence as it related to baseball and sports.

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