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ORGANIZED BASEBALL

REPORT

OF THE

SUBCOMMITTEE ON STUDY OF MONOPOLY POWER

OF THE

COMMITTEE ON THE JUDICIARY

Pursuant to

H. Res. 95

(82d Cong., 1st Sess.)

AUTHORIZING THE COMMITTEE ON THE JUDICIARY
TO CONDUCT STUDIES AND INVESTIGATIONS
RELATING TO MATTERS WITHIN ITS
JURISDICTION



SUBMITTED BY MR. CELLER

MAY 27, 1952.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

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¹ The subcommittee was reconstituted as Subcommittee No. 5 (Antitrust Subcommittee), effective February 18, 1952, with the following membership: Emanuel Celler, New York, chairman; Edwin E. Willis, Louisiana; Byron G. Rogers, Colorado; Chauncey W. Reed, Illinois; Kenneth B. Keating, New York; William M. McCulloch, Ohio.

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ORGANIZED BASEBALL

MAY 27, 1952.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. CELLER, from the Subcommittee on Study of Monopoly Power of
the Committee on the Judiciary, submitted the following

R E P O R T

[Pursuant to H. Res. 95, 82d Cong., 1st sess.]

ORGANIZED BASEBALL

I. REASONS FOR INVESTIGATION

INTRODUCTION

The Subcommittee on Study of Monopoly Power opened its hearings on organized baseball on July 30, 1951. Hearings were commenced at that time because the subcommittee was then confronted with an immediate legislative problem, and because an investigation of the baseball industry fitted squarely within the scope of the subcommittee's long-range program of examining the impact of the antitrust laws on various areas of the economy. In addition, it was the subcommittee's hope that a free and open discussion of certain problems which have long troubled baseball might facilitate their solution in the public interest.

A. IMMEDIATE LEGISLATIVE PROBLEM

Before the subcommittee commenced its investigation three bills, H. R. 4229, 4230, and 4231, which were designed to grant a complete exemption from the antitrust laws to all "organized professional sports enterprises or to acts in the conduct of such enterprises" had been referred to the subcommittee for its consideration.¹ These bills, as well as a companion bill in the Senate,² were introduced in the Congress by friends of baseball because they feared that the continued existence of organized baseball as America's national pastime was in substantial danger by the threat of impending litigation.

At the time the subcommittee opened its hearings it had been made aware of some eight different actions brought against various representatives of organized baseball seeking treble damages totaling several millions of dollars. In these lawsuits former baseball players and others were claiming that the various rules and regulations under which baseball conducts its affairs are violative of the Sherman Act. Particular attack has been made on the so-called reserve clause, which (as supplemented by several interrelated rules) is a—

provision in the player's contract which gives to the club in organized baseball which first signs a player a continuing and exclusive right to his services.³

Witnesses representing organized baseball uniformly testified that a holding by the courts that the reserve clause is illegal would have disastrous consequences on the game.

¹ The three bills were introduced respectively by Hon. Wilbur D. Mills of Arkansas, Hon. Melvin Price of Illinois, and Hon. A. S. Fliebel of Florida. Each provided:

"Be it enacted by the Senate and House of Representatives of the United States of America by Congress assembled, That the Act of July 2, 1890, as amended, known as the Sherman Act; the Act of October 15, 1914, as amended, known as the Clayton Act; the Federal Trade Commission Act, as amended; and the Act of June 19, 1936, known as the Robinson-Patman Antidiscrimination Act, shall not apply to organized professional sports enterprises or to acts in the conduct of such enterprises."

² S. 1520, introduced by Senator Edwin C. Johnson of Colorado, is identical except that it omits specific mention of the Robinson-Patman Act.

³ Hearings, p. 29. See infra sec. VII for a complete description of the reserve clause.

The sponsors of the bills which were referred to the subcommittee felt that the pendency of these lawsuits posed such a serious problem that baseball was in need of legislative protection. They, for the most part, stoutly defended the legality of the reserve clause, but nevertheless stated that the legal question was sufficiently doubtful to warrant Congressional action. Congressman Herlong, a former minor league president who spoke both for himself and for Congressman Mills in support of the bills which they had introduced, testified that—

there is a doubt cast over baseball which has caused a flood of these * * * suits against baseball for these enormous sums, treble damages, in antitrust cases.⁴

He further stated that—

what the fans do not understand is that baseball may not possibly go on like it is unless Congress does something. * * * We cannot afford to take a chance with anything as important as baseball is to so many people.⁵

Senator Johnson, the sponsor of the companion bill in the Senate, and the president of the Western League, described the importance of the problem as follows:

In recent years suits have been filed against the officials of professional baseball by disgruntled players in which the validity of the reserve clause has been challenged. If these suits are successful America's national pastime will be relegated to the sandlots from which it emerged almost a century ago. To millions of Americans including Latin Americans that would be a tragedy of far-reaching implications.⁶

In response to questioning by Congressman Keating of the subcommittee as to whether or not the matter should be left alone, Senator Johnson forcefully stated:

In my opinion, the worst thing that could happen would be to leave it in the courts. I cannot think of any worse place to rest this matter than in the courts.⁷

The Senator expanded on this thought in colloquy with Congressman McCulloch:

Mr. McCULLOCH. Senator, is there some doubt among the people who are interested in baseball in those very questions right now?

Senator JOHNSON. Well, I cannot speak for them, I can only speak for myself, and I have doubts myself about the legality of the reserve clause. I do not know whether it is illegal or not, but with the suits coming on and increasing in number, why, I think that the matter has got to be resolved one way or the other.⁸

In view of the fact that these legislators had asked the Congress to confer a blanket immunity from the antitrust laws on "all professional sports enterprises," and the further fact that the afore-mentioned bills had been referred to this subcommittee for consideration, it was incumbent on the subcommittee to make a complete study of baseball in order to determine whether or not professional baseball is such a unique industry that it merits special and favorable treatment under the antitrust laws.

As the chairman pointed out at the start of the hearings:

* * * it is the considered and unanimous judgment of this subcommittee that our antitrust policy and the necessity for full and free competition is one of the cornerstones of our national policy.⁹

⁴ Hearings, p. 461.

⁵ Hearings, pp. 464-465.

⁶ Hearings, p. 373.

⁷ Hearings, p. 379.

⁸ Hearings, p. 380.

⁹ Hearings, p. 2.

The subcommittee could not possibly be expected to act favorably on a proposal for exemption from the antitrust laws without an understanding of all the implications of the proposal. And, of course, it could not have a sufficient understanding of the intricacies of organized baseball before it undertook a thorough study of the subject.

Hearings were thus necessitated because the subcommittee was confronted with an immediate legislative problem. Specifically the problem presented to the subcommittee was whether baseball and all other professional sports enterprises should be granted *carte blanche* immunity from the antitrust laws, whether it would be in the public interest to recommend some form of limited exemption, or whether any legislation at all would be desirable at this time.

B. LONG-RANGE OBJECTIVE

This subcommittee was established by House Resolution 137, Eighty-first Congress, and continued in the Eighty-second Congress by House Resolution 95 for the purpose of conducting a long-range study of the impact of the antitrust laws on various segments of the economy. In pursuance of that program, the subcommittee has held several series of hearings including studies of particular industries such as steel, aluminum, and newsprint. Although professional baseball is obviously not a basic industry like steel or aluminum, it is nevertheless an appropriate subject for study by this committee for quite a different reason.

For years professional baseball has been a self-regulated industry. In 1922 the Supreme Court held that professional baseball was not interstate commerce and therefore not subject to the Federal antitrust laws.¹⁰ Recently, in view of changed business conditions, as well as later decisions by the Supreme Court, the validity of that decision has been drawn into question. In the meantime, however, baseball has been able to assume that the Federal antitrust laws have no application to it. Since in many respects it is fair to characterize organized baseball as a monopoly,¹¹ it is appropriate for the Subcommittee on Study of Monopoly Power to conduct a thorough study of this industry which has operated for years in the belief that it was immune from the antimonopoly provisions of the law.

Does such an industry keep pace with changing conditions as readily as one whose members must constantly and independently struggle for their own survival? What effect does competition have on such an industry as baseball? Can this test-tube monopoly teach us lessons which will enable us better to understand the Nation's basic antitrust policies? These are some of the questions which the subcommittee sought to answer in the course of this investigation.

¹⁰ *Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs, et al.*, 259 U. S. 200 (1922).

¹¹ For example, a report drafted in 1946 by Larry S. MacPhail, then president of the New York Yankees, for submission to the 16 major league owners, stated in part:

"* * * we are in business with 7 (and sometimes 15) active partners. This partnership, and the agreement among the partners to cooperate in the business of baseball, constitute a monopoly. Our counsel do not believe we are an illegal monopoly (because of our partnership arrangement and cooperative agreements are necessary in the promotion of fair competition and are therefore for the best interests of the public) but we are a combination, and as such, the policies and rules and regulations adopted control every one of us in the operation of our individual business." Hearings, p. 474.

In addition to the short- and long-run legislative objectives just discussed, the subcommittee had learned from its previous investigations that the public discussion of difficult problems will sometimes facilitate their solution. These hearings revealed that baseball has had such problems, and representatives of the game have described the effect of these hearings as contributing to their solution. For example, Commissioner Frick volunteered the following comment at the close of the hearings:

I do believe, and I say this in all sincerity, that for the first time the members of baseball got together to meet a problem, and I think, Mr. Chairman, they were stirred to it a little bit by your committee hearing.

I think they were quite impressed by the questions that were asked here, so that there was a real sincere approach to the problem. We have not got the answers, but there was an exploratory meeting, and I think we have made strides.

I think that is what you had in mind.

Mr. Celler, may I say this one thing, too. It has been voiced before, but I want to echo it, that I feel that a great deal of good has come from these hearings, whether there be legislation, regardless of what your report is, a great deal of good comes always from having your own mistakes and your own shortcomings pin-pointed.

Sometimes it is not always pleasant, but when you go along in business for a great many years sort of on your own, nobody calls you short, you overlook many things.

I believe that baseball has profited very much from hearing this discussion from you gentlemen and from the witnesses on things that we can correct probably within our own organization as we think of it that have been brought to our attention, and I do thank you for the privilege of being here and listening, and I want you to know that I feel that I have gotten a great deal out of it. * * *

II. JURISDICTION OF CONGRESS

According to article I, section 8, of the Federal Constitution:

The Congress shall have Power * * * to regulate Commerce with foreign Nations, and Among the several States * * *

Under judicial interpretations of this constitutional provision, the Congress has power to investigate, and pass legislation dealing with professional baseball, or more particularly "organized baseball," if that business is, or affects, interstate commerce.

"Organized baseball" is a combination of approximately 380 separate baseball clubs, operating in 42 different States, the District of Columbia, Canada, Cuba, and Mexico (the Baseball Bluebook, (1951) pp. 18-20). Affiliated with this combination are winter leagues operating in Cuba, Panama, Puerto Rico, and Venezuela.

Inherently, professional baseball is intercity, intersectional, and interstate. At the beginning of the 1951 season, the clubs within organized baseball were divided among 52 different leagues. Each league is an unincorporated association of from 6 to 10 clubs which play championship baseball games among themselves according to a prearranged schedule. Such a league organization is essential for the successful operation of baseball as a business.

¹¹ Hearings, pp. 1056-1057.

So far as the league is concerned, it is a partnership for operational purposes * * *. Clubs are both competitors and partners. A club cannot operate unless it has other partners to go along with it * * *. You have to have eight clubs in order to conduct a league. Those clubs are competitors in operating their business. They have their own entity. But one club cannot go out and go through a baseball schedule. It takes the other clubs with them. There it becomes a partnership because each is essential to the other. You can have the New York Yankees in New York, and that is fine. But if you did not have the Boston Red Sox and the Washington Senators and the Philadelphia Athletics and the other clubs with which they play under an organized schedule, then there would be no league. And at that point we are partners as well as competitors.¹²

Of the 52 leagues associated within organized baseball in 1951, 39 were interstate in nature. All of the higher minor leagues and both of the major leagues included clubs representing cities in more than one State.

Classification	Interstate	Intrastate
Major leagues.....	2	0
AAA leagues.....	3	0
AA leagues.....	2	0
A leagues.....	4	0
B leagues.....	7	2
C leagues.....	10	13
D leagues.....	11	8

¹² Including one league operating entirely within Canada (the Baseball Bluebook, pp. 18-20 (1951)).

Like motion pictures, the actual baseball exhibitions are local affairs. But essential to the giving of these exhibitions are numerous interstate activities.

All leagues in organized baseball are associated together by the Major League Agreement, Major-Minor League Agreement, and National Association Agreement. These agreements require all member clubs to adopt a uniform players' contract, which is prescribed and prepared by the Major League Executive Council and the president of the national association. Players are required to consent both to the assignment and to the annual renewal of their contracts at the option of the club (Major League Rules 3 (a) and 9 (a); Major-Minor League Rules 3 (a) and 9 (a); National Association Agreement, secs. 15.01 and 24.01). Under these provisions the player contract itself may be sold or exchanged. These contracts in fact are sold or traded among clubs within a league and among clubs of different leagues through the media of interstate commerce. The prices paid for the assignment of these contracts sometimes exceed \$100,000.

The primary sources of revenue for baseball clubs are admissions, radio and television, and concessions. The following table indicates the combined revenue of the 16 major-league clubs from these sources for the years 1929, 1939, and 1950.

¹³ Hearings, p. 111.

Major league revenue

(In thousands of dollars)

Source of revenue	1929 ¹	1939	1950
Home games.....	6,559.1	6,766.6	18,394.8
Road games.....	2,221.4	2,320.2	4,517.8
Exhibition games.....	422.6	615.7	911.5
Radio and television.....	0	884.5	3,365.4
Concessions (net).....	582.8	850.3	2,936.3
Other.....	733.4	776.0	1,969.6
Gross receipts.....	10,519.5	12,113.3	32,035.5

¹ Data unavailable for 2 clubs: Chicago, American League; and Pittsburgh, National League.

Compiled from financial statements submitted to the subcommittee by major league clubs. Receipts from the sale of player contracts are not included in this compilation. Because some clubs leased their concession privileges, this item is reported as net receipts after deducting any direct costs attributable to concessions. Other sources of revenue are gross.

The following table indicates the percent of revenue from each of these primary sources:

Source of revenue	1929	1939	1950
	Percent	Percent	Percent
Home games.....	64.4	55.9	57.2
Road games.....	21.1	19.2	14.1
Exhibition games.....	4.1	4.6	2.8
Radio and television.....	0	7.3	10.5
Concessions.....	5.5	7.0	9.2
Other.....	6.9	6.0	6.2

Admissions still constitute the bulk of major league clubs' revenue although the proportion of revenue from all admissions has demonstrated a steady decline through the years. In connection with this source of revenue, it may be noted that approximately one-fourth of clubs' receipts from admissions are derived from road games and exhibition games which are usually played outside the clubs' home States.

The fastest-growing source of revenue for major league clubs is radio and television. Receipts from these media of interstate commerce were nonexistent in 1929. In 1939, 7.3 percent of the clubs' revenue came from this source; and in 1950, this share rose to 10.5 percent.

Portrayed in absolute terms, the growing importance of radio and television becomes even more pronounced. Receipts rose from nothing in 1929 to \$884,500 in 1939 and \$3,365,500 in 1950. Reported income from primary radio and television contracts for 1951 indicate that this sharp increase is continuing. Copies of these contracts submitted to the subcommittee reveal that the 16 major league clubs in 1951 received a minimum of \$4,561,312.50 from radio and television sponsors or stations. American League clubs reported \$1,778,412.50; National League clubs, \$1,598,900. To this must be added \$110,000 for the sale of radio and television rights to the 1951 all-star game and \$1,075,000 for the sale of similar rights to the 1951 world series. These receipts are divided equally among the clubs for application toward the players' pension fund.

Rivaling radio and television receipts for importance as a source of revenue are concessions, which include the sale of such merchandise as peanuts, popcorn, hot dogs, soft drinks, and beer.

Other miscellaneous sources of revenue in the major leagues include stadium rental, stadium advertisements, score-card advertisements, and the sale of score cards, sketch books, pictures, and other mementos.

Pragmatically, organized baseball is not amenable to effective State regulation. As stated above, most baseball leagues include cities in more than one State. These 52 leagues in turn are combined in an association which embraces 42 States and six foreign countries. Individual games, while conducted wholly within a State, are inseparable elements of the larger pennant race, which is dependent for its success upon interstate activities. Baseballs, bats, player uniforms, and other paraphernalia are purchased through the channels of interstate commerce. Team personnel in traveling from one city to another to complete the playing schedule must use railroads, airplanes, or other means of interstate commerce.

Equality of competition among clubs within the same league requires equality of the fundamental conditions under which they operate, particularly in the acquisition of players who create baseball contests. For the past 75 years, organized baseball has provided this uniform regulation itself without substantial State or Federal interference.¹⁴

After full review of all of the foregoing facts and with due consideration of modern judicial interpretation of the scope of the commerce clause, it is the studied judgment of the Subcommittee on the Study of Monopoly Power that the Congress has jurisdiction to investigate and legislate on the subject of professional baseball.¹⁵

III. ROLE OF BASEBALL IN AMERICAN LIFE

Baseball is commonly called America's national pastime. Ever since its inception over 100 years ago, the game has held a favored position among the American people, both as a participant sport and as a spectator amusement. Until 60 years ago, baseball was the only team sport of any consequence on the American scene. In the intervening decades, other team sports such as football, basketball, and hockey have risen to importance, but none have been able to supplant the position baseball has secured in the hearts of the public. Other sports flourish for a brief season and then sink to the background to await a rebirth of interest in the next season. Baseball, however, remains of public interest both in season and out. Whether it is June or December, the public is interested in the national game.

As was pointed out in the testimony of Larry S. MacPhail:

Baseball is very much greater than organized baseball. I think sometimes we are prone to focus on the organized-baseball part of baseball.

Organized baseball is only 50 leagues and perhaps three or four hundred clubs, and the major leagues are only 2 leagues and 16 clubs, but baseball is a thousand leagues—industrial, juvenile, semiprofessional, sand-lot, college, high school—

¹⁴ Statutes have been proposed in several States for the regulation of professional baseball. For example, a New York assemblyman introduced a bill, February 3, 1929, to place professional baseball clubs under the New York State Athletic Commission (New York Times, February 4, 1929, p. 17); and in 1948 a bill was introduced in the Massachusetts Legislature which would have outlawed the "reserve clause" in baseball contracts (Massachusetts Legislature, House bill No. 1636 (1948)).

¹⁵ Associated Press v. National Labor Relations Board, 301 U. S. 143 (1937); United States v. Darby, 312 U. S. 100 (1941); Wickard v. Filburn, 317 U. S. 111 (1942); American Medical Association v. United States, 317 U. S. 419 (1942); United States v. Crescent Amusement Co., 323 U. S. 173 (1944); McDonnell Island Farms, Inc. v. American Crystal Sugar Co., 334 U. S. 219 (1948); United States v. South Eastern Underwriters Association, 322 U. S. 533 reb. den. 323 U. S. 811 (1944). For a discussion of whether organized baseball is "trade or commerce among the several States" within the meaning of the Federal antitrust laws, see *infra*, sec. VII.

a thousand leagues with tens of thousands of clubs and millions of players and tens of millions of spectators.

Baseball is a game that has been built up with the country, and it means a lot to the country.¹⁸

George Trautman, president of the National Association of Professional Baseball Leagues, briefly described the extent of amateur and semiprofessional baseball, the "grass roots" of organized baseball. This includes the little leagues, organized for young boys, with 3,000 teams; the American Legion program for older boys with 16,000 teams; the high-school program with 9,000 teams; the American Baseball Congress, an amateur organization, with 2,600 teams; the National Baseball Congress, a semipro organization, with 8,000 teams; and an inestimable number of sand-lot teams.

Those baseball clubs combined under the banner of "organized baseball" represent a virtual monopoly of the professional side of the game. Due to this long-standing monopoly position, organized baseball considers itself trustee of the game. As explained by Mr. Trautman, baseball is --

a game which is a precious possession of the American people. One which belongs no more to those of us in the professional field than to the millions of loyal fans, old and young. We in (organized) baseball must and do accept the obligation to jealously guard the game, its spirit, its mighty contribution to succeeding generations of our youth as clean recreation, as a teacher of fair play, and as an example of the value of fair, yet earnest, competition.

We could not if we would, and would not if we could, escape our responsibilities. The impact of our game upon the life to the Nation binds us irrevocably to a continuing adherence to high standards. By all that we have been, and by all that we are, we are committed to a greater future to the game and to its devotees.¹⁹

The role of organized baseball in fostering amateur and semi-professional baseball was also described by Mr. Trautman:

I am pleased to inform the committee that from the founding of the American Legion following World War I, professional baseball has made substantial contributions to the Legion to assist in the Legion's junior baseball program. The association with the Legion has been a most happy one for both parties to it and has, without question, produced incalculable benefits for the youth of America. Down through the years, boys have commenced their baseball careers with one or the other of the thousands of Legion posts. The Legion program is eminently well-organized, consisting of a series between the regional winners.

I am informed by Legion officials that in 1950 the Legion program embraced 18,456 teams, involving several hundred thousand boys. In 1950, 4,620 of the players who participated in minor-league baseball were at one time participants in the Legion junior baseball program, and 270 of 1950's major-league players were graduated from the same program.

Professional baseball also has, for many years, had harmonious relationships with other baseball organizations, among them being the American Baseball Congress, an organization of amateur teams which stage an annual championship at Battle Creek, Mich., and also the National Baseball Congress, an organization consisting of the semiprofessional leagues and scattered throughout the world and now consisting of approximately 16,000 clubs.

For the past 5 years, the major and minor leagues have worked in close liaison with the National Federation of State High School Athletic Associations, with a view to assuring that high-school players will complete their years of eligibility for high-school sports. Substantial contributions have been made to the federation, and, generally speaking, the relationship has been a happy one.²⁰

Branch Rickey, general manager of the Pittsburgh Pirates, presented the thesis that the many desirable contributions of the game of baseball to American life are now being threatened by the antitrust uncertainties surrounding organized baseball.

¹⁸ Hearings, p. 1050.

¹⁹ Hearings, pp. 200-201.

There is no question in my mind but that every man on this committee recognizes and desires the ever-increasing indulgence of our country in the field of wholesome sport and competitive games. For centuries Great Britain has been the sport-loving, sport-investing, and sport-indulging nation of the world America has supplanted and surpassed Great Britain in all of these respects.

The playing of a great national game, all games, indeed, from the country meadows to the municipal playgrounds and from the little leagues, now so significantly important in our present-day program, a movement more effective than any other single force in the field of combating juvenile delinquency, and amateur teams everywhere, college and high-school conferences, self-supporting semi-professional organizations, municipal leagues, and county leagues, capped and climaxed by the par excellence of play in the professional game—all these are an important parts of American life and the greatest sport of all of them in this country is our game, baseball.

The precisions and exactitudes of play, the pleasing skills of all positions, the technique and tactics and strategy of the game, and the relationship of muscular human abilities to the timing of a thrown ball or the force of a bat that brings out those niceties in the field of decision and suspense combined with the comparative freedom from serious injury, make it almost an ideal game, not only for the youth of our country but, hopefully, for the youth of all nations.

This game is threatened. Lawsuits are now brought against this game involving what is known as the reserve clause, and 150 million people are concerned about this situation, and a committee of our Congress is concerned about it. And as I follow your explanations here, you want to do something about it, if you can properly do so.

Baseball does not wish to be continuously threatened by lawsuits from whatever source, disgruntled players or great players, good lawyers or otherwise. We want our house to be clean and above question.

What happens to the ownership of professional clubs in this country is completely transcended in making salutary the interests of our people.

Therefore, this committee has not only a difficult responsibility, but a grave one, in my judgment. Your efforts in these hearings should be satisfying evidence to everyone that you do represent the interest of all our people in arranging this game somehow or other that it will not only protect properly the investments of the owners and the rights of the players and the healthy development of the game itself, but more than that, there must, of course, be an enduring legality from the foundation to its flagpole.

* * * If our basic and indispensable rules are technically illegal, then for our country's sake surely our Congress will wish to do something about it, and you are our first step and indeed our great hope in this direction.²¹

Organized baseball has made important contributions to the public welfare in both peace and war. It has expended more than a million dollars to assist the American Legion junior baseball program. Each year the major leagues admit from 2 to 2½ million boys and girls to games free of charge. Frequently, it plays exhibition games, the entire proceeds of which go to subsidize municipal recreation. During World War II, the major leagues alone contributed almost \$2 million to the United Service Organization, the American Red Cross, and other service organizations. It also sponsored more than a billion dollars of sales of Government bonds at its parks and in special events, and sponsored frequent exhibition games and star appearances at Army and Navy camps.

In many respects, professional baseball typifies the basic ideals of the American people. Fairness and clean competition are the passwords of the sport. It is the melting pot of men of all races, religions, and creeds. As Senator Edwin Johnson of Colorado said before the subcommittee:

The other night at Griffith Stadium I saw an Indian pitching, a Cuban catching, a Pole strike out, a Negro hit a home run, and a Swede used as a pinch hitter.²²

²¹ Hearings, pp. 1022-1023.

²² Hearings, p. 391.

The success of the individual player rests not on who he is or where he came from or what he believes. Rather it is measured by how he performs. The Horatio Alger stories in baseball have been many. Babe Ruth went from a Baltimore orphanage to fame and fortune; Bob Feller stepped from an Iowa farm to become one of the most famous pitchers of all times; Ty Cobb came from an obscure town in Georgia to become a figure, honored and respected all across the Nation.

Said Cobb to the subcommittee:

* * * baseball is the national pastime. There are many millions of kids, many millions of people—probably many of you have played baseball at some time or other in their life. Baseball has made it possible for a fellow like myself from a little old small town in Georgia to improve himself. I feel very fortunate, and I owe a lot to baseball. If I have any sort of position in my community, or maybe financial, I attribute it to my opportunity of playing baseball.

* * * organized baseball, as we term it, I think is responsible for a great many boys of the hundreds and hundreds over the period of years that have been in baseball. * * * And a lot of those boys are able to advance in their profession and secure great salaries, save their money, go back and occupy positions in their community or wherever they so desire, and be greatly improved in their station in life.

* * * I have a reverence for baseball myself, and I am loyal to it because of what it has done for me, and * * * I will say this that baseball, as we have it today, is a great force in our country, and there must be something, I feel, for its protection. * * *

Organized baseball undoubtedly owes much of its public support to its unquestioned integrity. In a day when scandals are rocking many sports, baseball stands out as a model of honest competition. The subcommittee was greatly impressed by the unanimity of opinion on this matter among witnesses. Even those who were highly critical of some practices of organized baseball agreed with this fact. One example is Ross C. Horning, a minor league player.

Mr. STEVENS. What has your experience been with respect to how common it is for ball players to bet on baseball games * * *?

Mr. HORNING. I have never heard of a baseball player betting money on anything in baseball. It would be simply inconceivable for a baseball player to even think about betting on baseball. The standards maintained by baseball players, whether they are Class D or major league, would not permit it * * *

Mr. KEATING. Have you ever been approached or known of anyone being approached?

Mr. HORNING. No, sir. It simply is not done * * * as far as baseball players are concerned, they have absolutely nothing to do with that sort of thing.

Mr. STEVENS. Does that mean that they do not even bet a quarter or 50 cents?

Mr. HORNING. They would not even bet a coke * * *

Ever since the formation of the National League in 1876, officials in organized baseball have not hesitated to ban players, umpires, or club owners who associated with gambling. Testified Leslie M. O'Connor, who has been associated with the game for over 30 years:

Judge Landis always regarded [gambling] as being probably the most important thing that confronted baseball. He always had the thought that the integrity of the game must be placed above everything else, and Commissioner Chandler, I think, had the same thought, and I think anybody who ever becomes commissioner will have that thought.

Now the life of baseball depends upon complete dissociation from gambling. Baseball cannot live with gambling. On the other hand, racing cannot live without gambling.

¹¹ Hearings, pp. 11-12.

¹² Hearings, p. 350.

Judge Landis always talked to ball players on the basis that, "People judge you by those you associate with, and you must be very careful to abstain from any association with persons that are known to be gamblers. You may be perfectly innocent and you will find yourself involved in a situation which would be destructive of your baseball careers."

Following the same thought, he always talked to the club owners that, "You, likewise are under obligation to set an example to your players. You must not have connections of a gambling nature because you can't expect your players to abstain from contact with gamblers if you yourself are engaged in a business whose life depends upon gambling."

And he devoted very great efforts to getting out of their racing connections any club owners who had such connections. Mr. McGraw and Mr. Stoneham were connected with a race track in Miami, and Mr. Adams proposed to operate a dog racing track, which the judge regarded as even more evil than horse racing, in Boston. And the judge did not say, "You must get out of baseball." All he said was, "You must elect which one of these two inconsistent things you are going to engage in."

He always figured that the American public has an extremely strong affection for all sports, not merely baseball, but all sports. Of course, he thought baseball was one of the leading ones. And he thought that people regarded skulduggery in baseball as being much more reprehensible than they did in other walks of life, no matter what they were. * * *

Albert B. Chandler, former commissioner of baseball, testified that he maintained constant vigil to keep the game free from gamblers, even to the extent of hiring investigators recommended by the FBI.²¹ Ford Frick testified that by constant watch and moral suasion, the National League had succeeded in keeping gamblers from controlling even a minority of stock in any club.²²

In order to bulwark the game against any criticism, organized baseball has already enacted many safeguards in its various inter-league agreements. The Commissioner is vested with broad authority to expel any person associated with organized baseball for "conduct detrimental to baseball" (Major League Agreement, art. I, sec. 3). Major-Minor League Rule 20 prohibits any financial interest in more than one club in the same league. The hearings revealed two present violations of this rule: one stockholder holds a minority interest in both the Cincinnati Reds and Pittsburgh Pirates;²³ and Branch Rickey, general manager of the Pittsburgh club, retains a security interest in stock of the Brooklyn Dodgers which he sold to the O'Malley Holding Corp.²⁴ Major-Minor League Rule 3 (g) prohibits any negotiations or dealings for present or prospective employment with players, coaches, managers, or umpires under contract or reservation.

Approximately 50 million fans pay to see professional baseball games each year. According to data supplied by the Department of Commerce, the public spent 55.4 million dollars on admissions to professional baseball games in 1950, more than half the amount spent for the legitimate theater and opera and more than was spent for all other professional sports combined. The following table represents the Department of Commerce estimates on public expenditures for the major professional sports, 1929-50:

²¹ Hearings, pp. 695-697.

²² Hearings, p. 254.

²³ Hearings, p. 122.

²⁴ Hearings, pp. 299-300.

²⁵ Hearings, p. 1040.

	Professional			Horse and dog race tracks		Professional			Horse and dog race tracks
	Baseball	Football	Hockey			Baseball	Football	Hockey	
1920.....	17.0	0.7	2.8	2.0	1940.....	19.6	2.9	3.4	12.3
1930.....	17.0	.7	2.8	1.7	1941.....	20.9	3.3	3.6	12.9
1931.....	14.2	.8	2.7	1.5	1942.....	17.5	2.1	4.1	11.5
1932.....	12.4	1.0	2.3	1.1	1943.....	14.2	2.3	3.1	11.0
1933.....	10.8	1.1	2.0	2.0	1944.....	17.4	3.0	3.9	14.5
1934.....	12.7	1.2	2.3	5.6	1945.....	22.5	4.4	5.6	22.0
1935.....	14.7	1.5	2.6	7.1	1946.....	51.7	10.4	7.0	39.8
1936.....	17.7	2.0	2.9	8.4	1947.....	44.2	10.6	7.9	44.1
1937.....	18.6	2.2	3.0	9.1	1948.....	68.1	9.8	8.0	38.9
1938.....	19.7	2.3	3.1	11.6	1949.....	60.0	8.7	7.4	37.3
1939.....	21.5	2.7	3.2	11.4	1950.....	55.4	8.0	6.5	35.6

Source: Office of Business Economics, U. S. Department of Commerce.

Public interest in organized baseball is not limited to attending baseball games. Radio, television, newspapers, and magazines regularly feature not only the games but also every detail of the management of the business and of the personal lives of the players. Mutual Broadcasting System estimated that 69,000,000 persons in the United States listened to one or more of the 1951 World Series games (Sporting News, October 31, 1951, p. 21). The Sporting News, a newspaper which has been almost exclusively devoted to professional baseball for 65 years, has a weekly circulation of 325,000 and is read by over 1,500,000 fans each week. No other business enterprise, including any of the basic industries, receives so much attention from the daily press. As Philip K. Wrigley, president of the Chicago National League club, summarized the situation, "Baseball is doing business in a goldfish bowl."²⁸

IV. STRUCTURE OF ORGANIZED BASEBALL TODAY

A study of professional baseball in America today is largely a study of "organized baseball." The term is used to refer to the many professional clubs and leagues which have subjected themselves to the jurisdiction of the commissioner of baseball and have contracted with one another to abide by certain rules and regulations. Commissioner Frick explained the term "organized baseball" in the following language:

Organized baseball—and I refer to that section of baseball which comes under control of the commissioner and not including the myriad, literally thousands—literally thousands—of professional, semiprofessional, industrial, juvenile, and other baseball organizations which are nonetheless a great part of the game—organized baseball is composed of 51 leagues rating in performance from the 2 major leagues at the top, down through 6 classifications to the D leagues at the bottom of the structure. These 51 leagues comprise 382 clubs, operating in 42 of our 48 States, and in 4 foreign countries.²⁹

The scope of organized baseball was further explained by Mr. Frick in terms of the number of players and other employees connected with it.

To go a step further in discussing the scope of baseball today, you may be interested to know that there are now employed approximately 8,000 active players with an additional 1,400 players now temporarily out of baseball and serving in the Armed Forces. This is, of course, exclusive of the vast number of men and women who are employed directly or indirectly as a result of baseball's

²⁸ Hearings, p. 732.

²⁹ Hearings, p. 26.

operation. Back of the players and the umpires who put on the competitive performance on the field is another huge army of men and women who handle the business details; the club and league officials; the ticket sellers and takers; the ushers; the ground crews; the skilled electricians; carpenters and painters, et cetera; the men who operate the concessions and indirectly the newspapermen, radio and television men; Western Union operators and another vast army who supply the news information that 24 hours goes in response to the fans' demands throughout the Nation.³⁰

The industry which employs these 8,000 players plus an additional "vast number of men and women" has established a comprehensive and somewhat complicated system of agreements by which it governs itself. The government of organized baseball can best be understood by looking first at the major leagues and then at the minor leagues.

The 16 major-league clubs are 16 separate corporate entities. The two leagues are unincorporated associations each operating under its own constitution. But—

in interleague relations they are governed by the Major League Agreement which establishes and recognizes the office of commissioner and gives to the commissioner broad authority for disciplinary action against any club, any player, or any official where there is involved a question of conduct detrimental to baseball.³¹

The present Major League Agreement was executed by the two leagues and 16 clubs on November 1, 1946, and provides that it shall remain in force until January 1, 1970. In form it is an amendment to the agreement executed on January 12, 1921, when the office of commissioner was formally established. The agreement defines the functions of the commissioner and creates an executive council comprised of five men—the commissioner, the two league presidents and one other representative from each league.

Broadly speaking, the powers of the commissioner may be described as investigative and judicial. He is given broad discretion to investigate any acts or practices—

alleged or suspected to be detrimental to the best interests of the national game of baseball—

and to determine what—

preventive, remedial, or punitive action is appropriate in the premises.

His only powers, which might be considered legislative in nature, are limited to proposing changes in the rules, compelling a reconsideration of a rule after its adoption, and resolving disagreements between the two leagues over a proposed amendment to the rules or to the standard contracts.

The executive council is authorized to exercise all of the powers of the commissioner in the event of a vacancy in the office. In addition it acts as a sort of board of directors with jurisdiction, among other matters, to survey, investigate, and submit recommendations for changes in any rules, regulations, agreements, proposals, or other matters in which the major leagues have an interest. The executive council has power to act for the major leagues in the interim between the annual joint meetings of all clubs in the two major leagues. When the council is considering matters which concern the standard form of player's contract, the players are represented on the council by one active player from each league. These player representative however, do not have any vote on the council.

³⁰ Hearings, p. 28.

³¹ Hearings, p. 26.

The major-league rules were prepared by the executive council and "duly accepted by the clubs of both major leagues." These rules comprise a comprehensive schedule regulating the relationships among clubs and between clubs, players, and other officials. Among the provisions covered in the rules, for example, are the composition of the circuits of each league, the form of the standard major-league contracts, the reserve rules, and such matters as the player draft and the waiver rules.

The minor-league organization, though much more extensive, is comparable in structure to the majors'. Mr. Frick referred to the "second great division in organized baseball" as follows:

The second great division in organized baseball consists of the 49 minor leagues now in operation. As in the major leagues, each of these minor leagues maintains its own identity and its own individual set-up. These minor leagues are members of the national association, created by the national association agreement, with a governing body composed of its president and an executive committee made up of presidents of three member leagues, each from a different playing classification. In order to provide uniform standards for playing a game and for carrying on the activities which are incidental but necessary to doing so, all classifications of baseball, the major leagues and the minor leagues, have entered into another agreement called the Major-Minor League Agreement. Through this agreement, rules and regulations are coordinated, and under this agreement the national association, the minor leagues, agree that they, too, will be governed by the commissioner and will accept his authority in all matters pertaining to conduct detrimental to baseball. In order that there may be a more complete understanding of the rules governing competition and the conduct of the game, there have also been adopted the major league rules governing competition and conduct of the game between the major and minor leagues, and the national association agreement governing the operation, competition, and conduct of the game among the members of that association.²⁷

As explained by Commissioner Frick, the 49 minor leagues are parties to the Agreement of the National Association of Professional Baseball Leagues. President Trautman described the structure of this association as follows:

The national association is a voluntary association of professional baseball leagues and is an integral part of organized baseball. The member leagues of the National Association are presently divided into six classifications, based upon the aggregate minimum population of the cities comprising the respective leagues. Such classifications and population requirements are as follows: AAA, 3,000,000 people; AA, 1,750,000; class A, 1,000,000; class B, 250,000; class C, 150,000, and class D, up to 150,000.²⁸

The National Association Agreement establishes the form of the minor-league organization and also prescribes rules governing the general subject matter of the major-league rules. The rules effective in the minor leagues were described as follows in Mr. Trautman's testimony:

I think you will agree that rules are necessary for the orderly administration of every organization. Such rules may require interpretation; decisions concerning many matters must be made and records kept. In the case of minor-league baseball the Major-Minor Agreement and Rules of the National Association Agreement constitute the rules and provide the machinery for the administration of the affairs of the minor leagues and their constituent clubs.

On the playing fields the games are conducted according to a code of rules which has evolved over the years and in which changes have been made from time to time as the need therefor became apparent.

So too, the nonplaying part of baseball is conducted in accordance with the above-mentioned rules which have also been built up over the past 50 years.

²⁷ Hearings, pp. 27-28.

²⁸ Hearings, p. 178.

The national association is the official library of minor-league records. Over 40,000 player contracts were recorded in the office during the calendar year of 1950. During that same year 8,856 outright and conditional assignments of player contracts were recorded.

In general, it is the duty of the national association and its officials to protect the interests of the public, the players, and the owners and to protect and preserve the integrity of the game.²⁹

The president of the National Association in many respects acts as a commissioner of the minor leagues. His decisions can, however, be appealed to the commissioner of baseball. President Trautman explained this appellate procedure as follows:

The adjudicatory function of the president is the disposition by him of monetary and free agency claims asserted by players and umpires, and claims asserted by club against club, by club against league, and by league against league. By far the greatest proportion of these claims involve disputes between players and their clubs. When the vast scope of the national association is considered and when the highly competitive character of baseball is taken into account, it is indeed surprising that the president of the national association is not required to pass upon many more player claims than the records disclose. Since the commencement of my administration in January of 1947, 1,030 player claims have been filed, with the following result:

Year	Claims			Appeals					
	Filed	Allowed	Dis-allowed	To executive committee			To commissioner		
				Number	Affirmed	Reversed	Number	Affirmed	Reversed
1947.....	195	91	101	14	11	3	16	16	
1948.....	190	86	104	17	17	9	7	2	
1949.....	259	139	120	15	15	9	46	5	
1950.....	269	156	113	25	25	0	15	12	
1951.....	117	57	60	9	9	6	3	3	
Total....	1,030	632	498	80	77	3	87	36	

Note.—1951 includes data from January through July only.

This gives some idea of the machinery of professional baseball for the adjustment and settlement of claims. Where the claimant is a player or umpire and where the executive committee affirms a decision of the president adverse to him, he has a right to appeal to the commissioner. The club does not enjoy the same privilege, for if the executive committee affirms a decision of the president against the club, the executive committee's decision is final.

The CHAIRMAN. When a player takes an appeal to you, do you have a right to increase as well as decrease the penalty?

Mr. TRAUTMAN. Yes.³⁰

Authority of the commissioner over the minor leagues stems from the so-called Major-Minor League Agreement. That is an agreement between the two major leagues on the one hand and the national association on the other. In article I, the minor leagues expressly recognize the office of commissioner as created by the Major-Minor League Agreement and submit themselves to his jurisdiction.

The Major-Minor League Agreement in effect at the time of the subcommittee's hearings was adopted on December 7, 1946, and provided that it should remain in effect until January 12, 1952, unless sooner terminated by the national association. Such termination cannot be effected without the affirmative vote of three-fourths of the members—that is, the leagues—of the national association. Thus

²⁹ Hearings, p. 169.

³⁰ Hearings, p. 182.

if 15 leagues did not affirmatively vote to terminate the agreement, it would remain in force. It may be noted that at least half of the clubs in 29 leagues are identified as major-league farms either through working agreements or stock affiliation.

Supplementing the Major-Minor League Agreement are the major-minor league rules, which correspond in almost every detail to the major league rules. More complete discussion of these rules is reserved for other sections of this report.

V. EVOLUTION AND HISTORICAL DEVELOPMENT OF ORGANIZED BASEBALL³⁶

The present complicated structure of organized baseball and its myriad restraints are not the workings of a few far-sighted men. Rather they are the result of trial and error, historical accident, and the exigencies of baseball wars.

In order to understand more fully the historical background of the structure of organized baseball, the subcommittee made a comprehensive study of the evolution of the game from the formation of the first amateur club in 1845 to the present.

The popularity of baseball as a recreational activity for men increased rapidly from the organization of the Knickerbocker Baseball Club in New York City in 1845 until the Civil War. In 1857, the Knickerbocker Club and 15 other clubs in metropolitan New York organized the National Association of Baseball Players, which governed the sport until 1870. Membership in this association grew to 62 clubs in 1860, including clubs from up-State New York, New Jersey, Philadelphia, and Washington, D. C.

The Civil War transformed baseball from a sectional game into the national pastime. Soldiers, learning the game from its New York advocates, returned home after Appomattox to organize their own clubs. In 1870, over 400 clubs were represented at the last convention of the national association.

Competitive rivalry among the strongest clubs in the national association became so intense that the practice of "revolving" inevitably followed. In order to acquire winning teams, these amateur clubs began to lure players from other nines. The members of the national association early attempted to put a curb on this practice by adopting a rule which prevented any player from participating in a game unless he had been a member of his club for 30 days.

According to the testimony of Ford Frick:

Even at that early date they discovered it was impossible to maintain the type of honest competition that would make baseball an honorable game unless there was some regulation and control of the players who participated.³⁷

This measure, adopted in 1859, failed to halt the trend toward professionalism, however. Anxious to win, even if it meant out-of-pocket losses, backers of the stronger clubs would offer star players attractive positions in business or a straight salary to switch their allegiance. The national association attempted to reduce the temptations of revolving and suppress this tendency toward professionalism

³⁶ Unless otherwise indicated, the factual material is based on the testimony of Harry Simmons, the treatise by E. C. Aft (reprinted in the appendix to the hearings), and Peter S. Craig, *Organized Baseball* (thesis, Oberlin College, 1950).

³⁷ Hearings, p. 36.

by forbidding playing for "money, place, or emolument", but the rule seldom was enforced.

One of the first clubs to offer a straight salary was the Athletic Club of Philadelphia. This club is reported to have induced A. J. Reach, who later founded a sporting goods firm, to move from Brooklyn in June 1864. Two years later the complaint was made to the national association that the Athletics were paying Pike, McBride, and Dockney \$20 per week for services as ballplayers (H. Wright, *Note and Account Books*, New York Public Library).

Originally, if any admission price was charged for a baseball match, the fees went for equipment and rental of the grounds. But as the crowds increased at matches between the stronger clubs, the players found themselves with excess gate receipts which they divided among themselves. Players on the Philadelphia Athletics and the Brooklyn Atlantics, the two championship contenders in 1866, pocketed between \$200 and \$300 apiece as their share of two matches between these clubs.

By 1868, the gulf in ability between the strictly amateur clubs and the semiprofessional nines had become so great that the national association formally divided its membership into two classes—amateur and professional.

The shift of public interest from amateur to professional baseball was accelerated by the phenomenal success of the Cincinnati Red Stockings in 1869. Organized and managed by Harry Wright, one of the most successful of the game's early promoters, the club was the first to pay its whole team on a salary basis. The team was made up of 10 players, receiving salaries ranging from \$600 to \$1,400 for 6 months' employment. During the course of the season, the Red Stockings toured the country from the Atlantic seaboard to the Pacific coast, playing 57 games before 179,000 spectators without suffering a defeat. This triumphant tour continued in 1870 with Cincinnati winning 27 more games before losing to the Atlantics of Brooklyn, 8 to 7. No financial figures are available for the 1869 season, but historians Turkin and Thompson report that in 1870 the Red Stockings took in \$29,726.26 in gate receipts and spent \$29,724.87 on salaries and other expenses for a net profit of \$1.39 (*Official Encyclopedia of Baseball* (1951), p. 381).

The spectacular success of the Red Stockings on the playing field and proof of the fact that baseball could be placed on a professional level without bankrupting investors prompted 10 all-professional teams to take the field in 1870.

THE FIRST LEAGUE

The continued exodus of players from amateur clubs to professional clubs led to an open battle between the two blocs at the 1870 convention of the national association. This split ended with the withdrawal of the professional clubs who then organized the National Association of Professional Baseball Players.

As Harry Simmons explained to the subcommittee in his testimony:

The new association was loosely formed. Any club which could post a \$10 membership fee was qualified to join and make the race for the baseball championship of the United States. The rule against revolving was retained but contracts were mostly informal and some of the 11 clubs which participated in the first

championship season in 1871, were cooperative affairs. The rule on revolving read as follows:

"They must not have been players of any other club belonging to the professional association for 60 days prior to the date of the match they play in; except the club they were previously members of shall have disbanded and their written engagement with such club shall have been duly canceled".²⁸

The professional association stumbled through five chaotic years. Of 25 clubs which competed for the championship during this 5-year span, 16 were financial failures and 11 of these clubs lasted no more than a year. The only charter members still in the association when the 1875 season ended were the Boston Red Stockings, the Chicago White Stockings, the Philadelphia Athletics, and the New York Mutuals. The Athletics won the pennant in 1871 and the Red Stockings, managed by Harry Wright and studded with the best stars of the era, easily walked off with four successive championships from 1872 to 1875. Yet apparently none of these clubs made money. The Athletics finished their championship season with a net indebtedness of \$5,141. Although additional stock subscriptions were made in 1872, the club still had a deficit when the season was closed (Henry Chadwick, Scrapbooks, vol. 7, New York Public Library).

The Boston Club was not only the most successful on the field but also at the box office. Yet even here there were no dividends for the shareholders of the Boston Baseball Association. After 3 years of play, their net worth had dwindled to \$767.93. Profits of \$65.20 in 1874 and \$2,427.94 in 1875 only partially restored their losses (Boston Herald, January 31, 1875; Harry Wright, Note and Account Books, New York Public Library).

What was wrong with the professional association? Perhaps the most accurate analysis is that by A. G. Mills, the originator of the reserve rule, who said in a speech, March 7, 1914:

As now, each summer's campaign was planned during the preceding winter and the habit was general on the part of the clubs to take on obligations in the way of players' salaries that were not justified, as the spring games would inevitably demonstrate that the majority of such clubs could have no hope of winning even a respectable number of games. Moreover, this condition was greatly aggravated by the general practice on the part of the richer clubs, of stripping the weaker ones of their best playing talent. Then would follow the collapse of a number of these clubs in mid-season, leaving their players unpaid, while the winning clubs, owing to the disbandment of the weaker ones, would also frequently fail from inability to arrange a paying number of games.

In such a condition of things, it was manifestly impossible to establish and maintain that discipline which is indispensable to success in every form of team contest, and the laxity of discipline was largely responsible for the grosser evils which were then rife, such as dissipation, gambling, and even in some cases selling of games. (Spalding's Official Baseball Record, 1915, p. 47).

Typical of the fate besetting most clubs was that of the Forest City Club of Cleveland, one of the charter members of the professional association. Although the club finished a poor seventh in 1871, it had several players who were sought by its competitors. In order to retain these players, the manager had to give raises out of proportion to what the club could afford to pay. One player, James L. (Deacon) White, succeeded in raising his salary from \$2,000 to \$3,500. The team failed to measure up to expectations, winning only 6 of 21 games, patronage fell off, and the club went into receivership in midseason (Henry Chadwick, Scrapbooks, vol. 5, New York Public Library).

²⁸ Hearings, p. 123.

The gravitation of the better players to the richest clubs and the presence of many clubs which could not hope to finish out the season led to absurd pennant races. In 1875, for example, Harry Wright's Red Stockings, with a corner on the playing talent, won 71 games and lost only 8, while the runner-up Athletics had a 53-20 record. The last-place Brooklyn Atlantics won only 2 games and lost 42.

FORMATION OF THE NATIONAL LEAGUE

General disgust at the looseness of the professional association's organization led to the prompt acceptance of the plan to form a new league put forward by William A. Hulbert, a member of the Chicago Board of Trade and president of the Chicago White Stockings. In an effort to bring Chicago a winner, Hulbert had secretly signed four of Boston's stars and two of the Athletics' stars to 1876 contracts during the playing season of 1875. Signing players under contract with another club was in direct violation of the National Association rules, so Hulbert found it expedient to abandon the association and promote a new league, which he called the National League of Professional Base Ball Clubs.

The germ of Hulbert's new league was the "eight-club plan" proposed by Lewis Meacham, baseball editor of the Chicago Tribune, October 24, 1875. Meacham believed that by organizing a tightly knit league with eight clubs in eight large cities, professional baseball could be put on a sound financial basis and kept free from the degrading influences of pool-selling, bribery, and revolving. Adopting this plan, Hulbert succeeded in persuading seven clubs to join Chicago in launching his new league—Louisville, St. Louis, Cincinnati, Boston, Hartford, the Athletics of Philadelphia, and the Mutuals of New York.

The objects of the new league as outlined in its constitution were:

1. To encourage, foster, and elevate the game of baseball; to enact and enforce proper rules for the exhibition and conduct of the game, and to make baseball playing respectable and honorable.
2. To protect and promote the mutual interests of professional baseball clubs and professional baseball players; and
3. To establish and regulate the baseball championship of the United States.

The constitution further guaranteed all league members sole territorial rights in their cities.

Every club member shall have exclusive control of the city in which it is located, and of the territory surrounding such city to the extent of 5 miles in every direction, and no visiting club shall under any circumstances—not even with the consent of the local league club, until all league games on that ground shall have been finished—be allowed to play any club in such territory other than the league club therein located. (National League constitution, 1876, art. V, sec. 5).

The object of this provision was to prevent a recurrence of the situation which existed in Philadelphia in 1875, where patronage was divided among three professional clubs—the Athletics, Philadelphia, and Centennial baseball clubs.

New members could be admitted to the league only from cities with populations exceeding 75,000 which were not already represented.

Two negative votes were enough to bar a new member, and the annual dues were \$100 per club.²⁹

²⁹ National League constitution, 1876, arts. III and VI.

Member clubs were left free to compete for players' services:

No club shall be prevented from contracting with a player for the reason that he is already under contract with another club, provided the service to be rendered under the second contract is not to begin until the expiration of the first contract.

But to prevent contract fraud and revolving during the playing season, each club was required to notify the secretary of the league whenever a player was signed. Players who were expelled by any member club for accepting bribes, insubordination, or other misconduct were blacklisted from—"play with any league club * * * unless, upon his appeal to the board (of league directors), such dismissal or expulsion shall have been set aside."⁴⁰

Clubs were further prohibited from playing games on Sunday, and from permitting open betting on the grounds.

General supervision and management of all league affairs was in the hands of the league president and a four-man board of directors.⁴¹

Unlike the old National Association, the playing schedule was drawn up by the league instead of leaving the matter to each club. When the Mutual and Athletic Clubs refused to complete their 1876 schedule, by making their last western trip, the National League expelled both clubs, despite the loss in revenue which would accrue from the absence of New York and Philadelphia from the circuit.

The standard price for admission was 50 cents. A special business agreement, adopted in 1877, provided that each visiting club was to receive 15 cents for every person admitted to championship games, the number to be determined by self-registering turnstiles. The home club was to keep the remainder after deducting \$5 for the umpire. The clubs also agreed to deduct \$30 from each player's salary for the cost of his uniform and 50 cents per day for travel expenses while the club was on the road.

The constitution of the new league was greeted as professional baseball's—

declaration of independence * * * and, if, as the projectors hope, it succeeds in cutting off fraud, and inefficiency, and the other encumbrances of the game, it will meet with favor everywhere.⁴²

That the new league succeeded in cleaning up professional baseball, there is no doubt; but it did not succeed in placing the game on a firm, profitable basis. All clubs lost money in 1876, 1877, and 1878, and only Providence, which won the pennant, showed a profit in 1879.

Membership in the young National League was almost as volatile as in the old National Association. Of the eight charter members, two were expelled after the first season for failing to complete their schedules, three more (Hartford, St. Louis, and Louisville) resigned due to financial difficulty after the 1877 season, and the sixth, Cincinnati, was expelled, October 6, 1880, for selling liquor on its grounds in violation of a league rule. Of the three new members elected in 1878, Indianapolis and Milwaukee resigned at the end of the season, and Providence lasted until the end of the 1885 season. Of four new members in 1879, Syracuse collapsed during the season,

⁴⁰ National League constitution, 1876, art. XI.

⁴¹ *Ibid.*, art. IV.

⁴² Chicago Tribune, February 4, 1876, p. 5. For the complete contemporary account of the formation of the National League and comments on the abuses it was designed to correct, see the reproduction of this article in the appendix, hearings, p. 2511.

Troy resigned at the end of 1882, Cleveland at the close of 1884, and Buffalo at the close of 1885. Worcester, elected in 1880, lasted only three seasons.

The only two clubs able to weather the financial trials of these early years were Chicago and Boston, which clubs are still associated with the National League.

The degree of risk facing baseball investors in this period is indicated by the following table, summarizing the financial operations of the most successful club of the day, the Boston Base Ball Association:

Year	Receipts	Expenses	Profit or loss	Increased investment	Net worth
1873					\$767.08
1874					833.13
1875	\$30,931.47	\$30,865.67	665.80		3,261.07
1876	26,933.30	34,505.99	3,572.69		2,483.85
1877	29,381.30	30,758.52	1,377.22		233.00
1878	32,212.61	34,443.46	12,230.85		299.92
1879	26,350.36	27,783.77	11,483.41	\$1,461.33	245.68
1880	25,473.29	26,630.13	13,346.90	3,311.66	177.79
1881	23,712.52	26,928.42	13,815.00	74.88	352.62
1882	28,719.37	28,644.19	3,760.93		4,008.65

¹ Loss.

Source: Harry Wright, Note and Account Books, New York Public Library; Boston Herald.

Boston's playing record and the salaries paid to players during this same period were as follows:

Year	Games won ¹	Games lost ¹	Percentage ¹	Position	Payroll
1874	52	18	0.743	First	\$17,900.00
1875	71	8	.899	do	20,685.00
1876	29	37	.557	Fourth	19,331.85
1877	21	47	.648	First	22,420.00
1878	41	39	.767	do	18,814.00
1879	49	29	.628	Second	15,759.92
1880	40	44	.474	Sixth	14,067.96
1881	28	65	.458	do	
1882	45	39	.536	Third	

¹ Championship games only; exhibition contests not included.

As far as the owners were concerned, the reason for the financial instability of professional baseball was not hard to find—salaries were too high. For most clubs, player salaries constituted two-thirds of the club's expenses and the budget could not be cut without jeopardizing the owners' investment. After each season players were free to sign for the succeeding year with whomever they pleased. Reductions in salary were certain to encourage players to seek employment elsewhere.

Indeed, the pressures were for steady increases in the payroll. The desire to sponsor a winning team and the fact that a pennant contender meant greater patronage and lower losses spurred the owners to bid recklessly for star players' services. As a consequence, revolving in the off-season became a standard practice. Deneon White, whose salary demands had helped force the Cleveland Forest Citys into bankruptcy in 1872, was one of the Big Four lured from Boston to Chicago by Hulbert in 1876. After assisting the White Stockings

o the National League pennant that season, White went back to Boston in 1877, led the league in batting (.385) and helped the Red Stockings regain the pennant. In 1878, Cincinnati, attempting to rebuild after a last-place finish the year before, induced White to leave Boston again and bring along his brother, Pitcher Will White. Boston retaliated by taking John Manning, Cincinnati's leading batter of the prior year, and beat out Cincinnati by four games for the 1878 pennant.

Providence entered the National League in 1878 and concentrated in Boston and Chicago to secure its talent. In its first year, the newcomers hired Catcher Lewis Brown from Boston and Outfielder Paul Hines from Chicago. In 1879, Providence secured Shortstop George Wright and Outfielder Orator Jim O'Rourke, two of Boston's mainstays, and induced First Baseman Joe Start, to leave Chicago. The magnitude of these 1879 raids is apparent when it is noted that both Wright and O'Rourke are immortalized in baseball's hall of fame or their recognized playing greatness and Start was Chicago's leading batter in 1878. Boston lured Charles Wesley Jones from Cincinnati to replace O'Rourke, but Providence had the edge and won the pennant by six games.

FIRST RESERVE RULE

If salaries were to come down, it was evident to the club owners that this annual bidding for star players and the subsequent overloading of star players on a few teams had to cease. In an official-league pronouncement following a meeting at Buffalo, September 29, 1879, the owners announced:

The financial results of the past season prove that salaries must come down. We believe that players in insisting on exorbitant prices are injuring their own interests by forcing out of existence clubs which cannot be run and pay large salaries except at a large personal loss. The season financially has been a little better than 1878; but the expenses of many of the clubs have far exceeded their receipts, attributable wholly to the large salaries. In view of these facts, measures have been taken by this league to remedy the evil to some extent in 1880.¹²

The means for accomplishing these salary reductions was the reserve rule, introduced by A. H. Soden, president of the Boston Club, and secretly adopted on September 30, 1879. This rule took the form of a signed agreement, by which each club was permitted to reserve five players for 1880. Sole rights to employ such players were granted to the reserving club.

That the reserve rule accomplished its purpose is indicated by a comparison of individual salaries on the Boston Club for 1879, 1880, and 1881:

¹² New York Clipper, October 11, 1879, as quoted by Harry Simmons, p. 139.

1879				
Player	Position	Games	Batting average	Salary
Cugswell	First base	49	0.322	?
Burdock	Second base	84	.240	\$1,500
Morrill	Third base	84	.281	1,400
Sutton	Shortstop	84	.248	1,800
Jones	Outfield	83	.315	1,500
O'Rourke, John	do	70	.341	1,300
Houck	do	80	.264	600
Haves	do	37	.200	900
Foley	Substitute	35	.313	1,000
Snyder	Catcher	84	.234	1,400
Bond	Pitcher	43	42-19	2,200

1880				
Morrill	First base	84	0.260	\$1,500
Burdock	Second base	84	.256	1,500
Sutton	Third base	74	.250	1,200
Richmond	Shortstop	31	.348	875
Jones	Outfield	64	.297	1,500
O'Rourke, James	do	84	.281	1,400
O'Rourke, John	do	78	.282	1,300
Foley	Substitute	78	.285	1,100
Powers	Catcher	35	.145	1,200
Snyder	do	(?)	(?)	(?)
Bond	Pitcher	74	26-29	1,500

1881				
Morrill	First base	80	0.289	\$1,200
Burdock	Second base	73	.237	1,400
Sutton	Third base	83	.291	1,400
Barnes	Shortstop	50	.271	?
Hornung	Outfield	83	.240	1,050
Crawley	do	71	.254	1,000
Richmond	do	26	.275	875
Deasley	Substitute	43	.229	1,200
Snyder	Catcher	60	.238	1,400
Whitney	Pitcher	74	31-33	1,050

¹ Reserved for succeeding season.

² Did not play.

³ Signed to 3-year contract.

Source: Harry Wright, Note and Account Books, New York Public Library.

As these figures indicate, the three top-salaried Boston players of 1879 were given salary cuts ranging from 16 to 32 percent. A fourth, Snyder, sought employment elsewhere and, when he found no one making offers, sat out the entire season rather than return to the Red Stockings. Two of the players reserved for 1881 received further cuts in salary, and Bond, his pitching arm ailing, retired from the game.

Deacon White had received a salary of \$2,000 for going from Boston to Cincinnati in 1878. The reserve rule enabled Buffalo to keep White from 1881 to 1884 at a salary of \$1,600 (H. Wright, Note and Account Books, New York Public Library; Spalding Base Ball Guide, 1890).

This reserve rule limited to five players did not entirely eliminate the practice of "revolving," however. It merely limited the competition to a smaller group of players. Chicago hired two "sleepers," Pitcher Fred Goldsmith from Troy and Catcher Michael "King" Kelly from Cincinnati, and with the assistance of these two young stars won three successive pennants in 1880, 1881, and 1882. And "Orator Jim"

O'Rourke, whom Boston neglected to reserve for 1881, moved to Buffalo, where he was hired as player-manager for \$2,000, a salary increase of \$600.

As a consequence the reserve rule was expanded to embrace 11 players (a full team) in 1883, 12 in 1885, and 14 in 1887.

Another important provision adopted by the National League at its 1879 meeting was the uniform contract, which followed in form the contract used by the Chicago club (Harry Wright, *Correspondence*, vol. 1, p. 74; and vol. 2, New York Public Library). The contract contained no mention of the reserve rule. The purpose of the uniform contract was to enforce newly adopted rules giving each club authority to suspend indefinitely any player who was found guilty of drunkenness, insubordination, or dishonorable conduct.

Once suspended, however, a player became ineligible to play with any other club in the league, just as if he were under reserve. He remained on the blacklist until reinstated by joint action of the entire league.

An example of the flagrant abuse which this boycott permitted was cited by Mr. Lee Allen, baseball historian, in his statement to the subcommittee:

Consider the case of Charles Wesley Jones, an outfielder on Soden's Boston Club. Owed \$378 in back salary by Boston during the 1880 season, Jones was suspended for refusing to play until paid and was left stranded in Cleveland. For over 2 years he remained on the side lines, living on the proceeds of a benefit game arranged in his behalf by the Cincinnati Enquirer. He picked up odd change now and then in games around Portsmouth, Ohio, and gained reinstatement only when the American Association was organized as a major-league rival to the National. Had the association respected the National League blacklist, Jones would have been deprived of his livelihood forever.⁴

This new blacklist was also employed as a sanction against players who broke their contracts. Phil Baker was declared ineligible in 1881 for jumping to an independent club in Washington after having signed with a National League club (New York Times, December 8, 1881, p. 1).

The boycott was also used to pressure clubs outside the National League to respect its members' contracts. In 1879, Alexander McKinnon refused to abide by his contract with Troy and signed with the Hop Bitters of Albany, an independent club. Worcester, another independent club, played the Hop Bitters, and was promptly notified that its exhibition engagements with Boston, Providence, and other National League clubs had been canceled. When the Worcester Club swore that it was ignorant of the fact that the Hop Bitters were harboring a contract jumper, President Hulbert lifted the ban (letter, Hulbert to Soden, in H. Wright, *Correspondence*, vol. 2, New York Public Library).

Both practices—that of blacklisting contract jumpers and that of boycotting clubs employing or playing against contract jumpers—have been standard extra-legal methods for the enforcement of player contracts by organized baseball up to the present day. During the eighties the bans were extended to apply to players and clubs which refused to abide by organized baseball's reserve rule.

Whatever abuses might have been attached to the reserve rule, it helped provide the National League clubs with a continuity of player strength. In 1881 for the first time since the organization of the

⁴Hearings, p. 155.

league, a majority of the clubs showed a profit. Fourth-place Detroit earned a reported \$8,893 net income on a capitalization of \$5,000 and gross receipts of \$27,696, and sixth-place Boston showed a nominal profit of \$75 on gross receipts of \$28,719.

The public showed renewed confidence in the game and attended National League games in ever-increasing numbers. Paid attendance at Providence rose from 46,261 in 1879 to 66,650 in 1882; at Boston from approximately 39,000 in 1879 to 50,971 in 1882, 138,000 in 1883, and 295,000 in 1889; at Philadelphia, readmitted to the league in 1883, 55,992 in 1883 and 281,369 in 1889.

Receipts and earnings also skyrocketed. Gross receipts at Philadelphia rose from \$39,583 in 1884 to \$49,838 in 1885, \$99,000 in 1887, \$71,000 in 1888, and \$97,390 in 1889 (H. Wright, *Note and Account Books*, New York Public Library). Net profit was \$6,029 in 1884, \$13,107 in 1885. The New York Giants, added to the league in 1883, earned an estimated \$120,000 in 1885, when they finished second to Chicago by two games; and in 1889, Boston and New York each netted from \$80,000 to \$100,000 after a pennant struggle which saw the Giants win by one game.

From 1881 through 1889, not a year elapsed when at least five of the eight National League clubs did not make money. By the league's own admission to the public, profits from 1885 to 1889 totaled \$750,000 (an average of about \$19,000 per club each year), of which \$600,000 was reinvested in the business.

This financial success enabled club owners to divert a large part of their income from the bidding for players to the building of grandstands and ball parks more attractive to the fans (or "cranks" as baseball patrons were called in that era).

The ball players, too, benefited from this new stability and prosperity. While the reserve rule had been directed against them to reduce salaries, in the long run they realized a greater income. Partly due to the owners' desire to keep them satisfied, partly due to competition by rival leagues and partly due to the competition resulting whenever a weaker club forfeited its franchise and players, the average player salary doubled from 1881 to 1889. Of the players active throughout this 9-year period, Michael "King" Kelly's salary increased from \$1,300 to \$4,000; "Orator Jim" O'Rourke's, from \$2,000 to \$3,500; Deacon White's, from \$1,600 to \$3,500; Buck Ewing's from \$1,000 to \$5,000; and John Montgomery Ward's, from \$1,700 to \$4,250—just to name a few (*Spalding Base Ball Guide*, 1890).

The stability engendered by the reserve rule reversed the gradual exodus of interested investors from professional baseball. Promoters, eyeing the success of the National League, soon organized leagues patterned after the older organization. The earliest of these leagues consisted of clubs in smaller cities which were unable to provide the patronage to keep better players from gravitating to the National League. These leagues soon collapsed. The first successful rival which could legitimately call itself a major league was the American Association, founded November 2, 1881 (New York Times, November 3, 1881, p. 2). Clubs from six cities lacking representation in the National League entered the American Association during its first season. They were Brooklyn, Philadelphia, Pittsburgh, Cincinnati, Louisville, and St. Louis. By countenancing Sunday games, the sale of beer, and a 25-cent admission charge, the new league met with immediate success.

In its search for player talent, the American Association came into inevitable conflict with the National League. Forty-seven of the new league's players during the 1882 season were former National Leaguers, 1 of them—Charles Snyder—being a reserve jumper (the other 46 were not on any of the National League clubs' reserve lists, which at that time were limited to 5 players). Other National League players agreed to sign contracts with clubs in the new league and then returned for promised increases in salary. One such player, Sam Wise, signed with Cincinnati in the American Association and then signed a second contract with Boston in the old league. Cincinnati went into an Ohio court and secured an injunction restraining Boston from using Wise, but this order was not enforceable in other jurisdictions. To evade the Ohio process servers, Boston played Wise in every National League park but Cleveland.

During the 1882 season, clubs in the American Association signed additional National League stars to option agreements by which the players agreed to sign with the new league at the termination of the season. Informed of these impending desertions, National League club owners persuaded these players to sign 1883 contracts in violation of their option agreements. The Allegheny Baseball Club of Pittsburgh unsuccessfully attempted to enjoin Catcher Charles Bennett from violating his option contract and returning to Detroit.⁴⁵

BIRTH OF ORGANIZED BASEBALL

The war between the two rival circuits extended from players to questions of territory after the 1882 season. The National League announced its intentions of placing a club in Philadelphia in rivalry with the Athletics, and John B. Day, of New York, secured franchises from both leagues.

William Hulbert, president of the National League, died in 1882 and was succeeded by A. G. Mills, who, as Harry Simmons testified:

* * * promptly made peace overtures to the American Association. Mills realized that there was enough room for two major leagues and, with a growing interest in the pastime, harmony would work to the advantage of all. The treaty, called the tripartite pact or national agreement, was effected in New York City, March 17, 1883. * * *

Relevant portions of this agreement, as modified and in force in 1889, read as follows:

II. (a) No contract shall be made for the services of any player * * * prior to the 20th day of October * * * nor shall any player, without the consent of the club to which he is under contract, enter into any negotiation or contract with any club * * * for an ensuing year prior to the 20th of October. * * * (this was the predecessor of the modern "tampering" rule).

(b) Every regular contract shall be registered and approved by the secretary of the association of which the contracting club is a member, who shall forthwith notify the secretary of the other association * * *

III. When a player under contract with or reservation by a club member of either association party hereto is expelled, blacklisted, suspended, or rendered ineligible * * * all club members of the parties hereto shall be debarred from employing or playing with, or against, such disqualified player, until * * * the disqualification be revoked. * * *

IV. On the 10th day of October in each year the secretary of each association shall transmit to the secretary of the other association a reserve list of players, not exceeding 14 in number, then under contract * * * and of all ineligible

⁴⁵ *Allegheny Base-Ball Club v. Bennett*, 14 Fed. 297 (C. C. W. D. Pa. 1882).
⁴⁶ *Hearings*, p. 141.

players, and such players, together with all others thereafter to be regularly contracted with by such club members are and shall be ineligible to contract with any other club member of either association party hereto * * *

VI. Each club member of either association party hereto shall have exclusive control of its own territory, and no club shall be entitled to membership in either association party hereto from any city in which a club member of either association party hereto is located * * *

VII. No games shall be played between any club member of either association party hereto, or any of its players under contract or reservation with any other club or "team" while presenting in its nine any ineligible player. A violation of this section shall subject each offender to fine or expulsion in the discretion of the board of arbitration.

IX. A board of arbitration, consisting of three duly accredited representatives from each of the associations parties hereto, * * * may make, from time to time revoke, alter, and repeal all necessary rules and regulations not inconsistent with this agreement. * * *

* * * said board shall have sole, exclusive, and final jurisdiction of all disputes and complaints arising under, and all interpretations of this agreement * * * (National Agreement, 1889).

The Northwestern League, a minor organization, was one of the three original parties to the national agreement. This league, which lasted only 2 years, was the only minor league granted the right of reservation. Other minor leagues which came into the combination during the eighties had no reservation rights until November 1887, when for a special protection fee of \$250 per club the minors were allowed to retain their players from year to year.

The 1884 Reach Baseball Guide, commenting editorially on the reserve rule as enacted in the first national agreement said (pp. 41-43):

The most difficult problem the league has had to solve, in legislating for the government of the professional fraternity, has been that of how to control and regulate the salaries of players. The club rivalry for the possession of the best players each season has been, from the very outset, an obstacle to an equitable arrangement of the salary question; and this has led to an increase of club expenses of this kind until the subject became one involving the future existence of even the most wealthy of the league clubs * * *

Efforts were made to establish special rates governing the several positions of a club team, so as to regulate the pay according to the work done. But all such efforts failed until the rule reserving 11 men, at a stated minimum salary, was adopted. Up to this point in the history of the question, fancy prices had prevailed in the professional market to an extent which threatened the future existence of the whole professional fabric. It then became a question as to whether the existing stock companies should go on until they were forced into bankruptcy, or by some stringent rule, even if, in a measure arbitrary in its enactment, a stop should be put to the fancy salary abuse. Left to itself, the evil would grow each season and bring down the whole professional structure. It was determined to put a stop to it, and adopt a rule which would preserve even players themselves from fatal results. By reserving 11 men at a salary of not less than \$1,000 a season the club placed a barrier to the further progress of the fancy salary business, and besides this they placed themselves in a securer financial footing than it was possible for them to obtain under the old order of things. It will only need another year's trial of the reserve rule to show the few players still opposed to it that it will accrue as much to their future pecuniary benefit as it will to the clubs themselves. The rule which builds up clubs firmer, and which aids their permanent establishment, cannot be otherwise than equally beneficial to the best interests of the club's players * * *

THE UNION ASSOCIATION WAR

Before organized baseball—the name usually conferred on the parties to the national agreement—was 1 year old, a new major league challenged the principles upon which it was based. This new league was the Union Association, organized in Pittsburgh, September 12,

1883. At this organizational meeting, the Union Association passed the following resolution:

Resolved, That while we recognize the validity of all contracts made by the league and American Association, we cannot recognize any agreement whereby any number of ballplayers may be reserved for any club for any time beyond the terms of their contracts with such club.

William Warren White of Washington, the league's secretary, elaborated this resolution by announcing:

We are certain to succeed. Our refusal to be bound by the "11-men reserve rule" assures us of the good will of every player in the country, for the stand we have taken is directly in their interest. It will enable every man to obtain as much salary as his services are worth, which is more than the old associations are willing to concede. We do not intend to declare war on either the league or American Association, but if either of the old associations declares war on us we will not sit idly by. I do not anticipate any trouble, however (New York Times, September 13, 1883, p. 2).

The existing leagues looked upon the Union Association as "wreckers" of the national agreement and took every step within their means to drive the new circuit to the wall. During the winter both the National League and the American Association adopted the so-called Day resolution blacklisting any reserved player who left to play the new league.

A. G. Mills, president of the National League during this period, explained the purpose of this resolution as follows:

In November 1883, we learned that emissaries of the wreckers were in negotiation with certain of our reserved players, and that one, at least, had agreed to serve a Union club for the season of 1884. In the course of the discussion which ensued I urged, in substance, that, unless the league should take some action forbidding such a course, the reserving club might, in the emergencies of the playing season, be tempted to induce such deserting reserved player to return to its team by the offer of a higher salary than the Union club was paying him, and thus, in effect, reward such player for having deserted the reserving club, and so encourage, instead of discouraging, similar desertions; and that the only way to prevent such action, consistently with our reserve rule, was to debar the reserving club, in the event of its reserved player contracting and playing with a Union club, from thereafter employing him (letter, A. G. Mills to editor, Sporting Life, May 31, 1888, mss. Baseball Hall of Fame, Cooperstown, N. Y.).

The Day resolution was admittedly a war measure, designed to keep the new league from disturbing the profitable domain of the two existing major leagues. And as such a measure it succeeded in destroying the new organization after one season. Few players were willing to risk the success of the new venture against the possibility of permanent ineligibility if it failed.

In a frantic attempt to hire players with ability, the Union Association solicited not only players under reservation but also players under contract. But to no avail. Only five of the starting clubs finished the season. The St. Louis Unions, owned by Henry V. Lucas, "angel" of the new league, so outclassed their rivals that the fans lacked interest from the start. Total losses sustained by the Union backers were reported to be \$250,000.

The only victims of the war were not the outlaws. Of six minor leagues starting the season, all collapsed but one—the Eastern League, predecessor of the present International League (Spalding Minor League Base Ball Guide, 1902, p. 11). The American Association, experimenting with a 12-club league, lost heavily. Only the National League finished in the black; and even there, one club—Cleveland—

was forced to quit after the season because of player desertions to the Union Association.

The Union Association made a valiant attempt to continue, even to the extent of adopting its own reserve rule at a meeting in Washington, September 18 and 19, 1884 (Sporting Life, September 24, 1884). But when Lucas' St. Louis club was admitted to the National League to replace Cleveland, it gave up the fight.

Chris Von der Ahe, owner of the St. Louis Browns of the American Association, stood by his "territorial rights" under the national agreement and objected violently to the admission of a rival club in "his city." Four days after the National League threatened to withdraw from the national agreement if necessary to admit the St. Louis Unions, Von der Ahe withdrew his objections, allegedly because of popular sentiment by St. Louis fans (New York Times, January 11, 1885, p. 2; January 20, p. 1; January 22, p. 2; January 26, p. 2).

Both the National League and American Association stoutly insisted that players who had jumped contract or reservation to play in the Union Association were "forever disqualified" from returning to organized baseball. Doubts soon arose, however, as to the legal or ethical justification of the Day resolution. In the face of growing public reaction and Lucas' desire to place a strong club in St. Louis, the National League retreated from its former position. On April 18, 1885, the league voted to reinstate four reserve jumpers at a fine of \$500 apiece and five contract jumpers at a fine of \$1,000 (New York Times, April 19, 1885, p. 2).

The American Association looked upon its partner's action as a breach of the national agreement and announced it would no longer recognize the reserve rights of the National League. (New York Times, April 28, 1885, p. 5). Renewed war was averted, however, when the two leagues met in October, reaffirmed the national agreement, and the American Association reinstated its jumpers (New York Times, October 18, 1885, p. 2).

ASSIGNMENT OF PLAYERS

Under the first national agreement as written by A. G. Mills there was no machinery for trading players or transferring them to another club for cash consideration. This situation confronted the leaders of organized baseball with many knotty problems.

Tony Mullane, a pitcher with the St. Louis Browns (American Association), jumped the reservation and signed with the Union Association club in St. Louis for 1884. After the Day resolution was passed, Mullane sought to breach his contract and to return to organized baseball to avoid blacklisting. The Browns were unwilling to take him, however, for fear of legal action by their Union rivals. Toledo in the American Association wanted Mullane, but the problem was how to sign Mullane to a Toledo contract after the Browns released him from reservation without other clubs signing the famous pitcher first.

Wrote A. G. Mills to the Browns' manager:

There can be no such thing under the national agreement as a qualified release. The effect of a release is plainly stated: thereby the player becomes eligible to contract with any club * * *. There is a way, of course, by which * * * the clubs of any association party to the national agreement might be debarred from competition with Toledo for Mullane.

circulate a paper among such clubs, plainly stating the object of the proposed release, and pledging the clubs that on Mullane's release they will not negotiate with him or contract with him for the season of '84. This is practicable, and would cover the question of competition, and I know of no other way in which it can be covered (letter, A. G. Mills to J. A. Williams, January 22, 1884, *Mss. Baseball Hall of Fame, Cooperstown, N. Y.*).

The Browns followed the suggested procedure, and Toledo successfully signed Mullane. The Union Association tried and failed to secure an injunction in the Federal circuit court in Cincinnati to restrain Mullane from breaching his contract. After the demise of the Union Association, the Browns paid Toledo a high price for the return of Mullane, who had won 36 games in 1884. This time not everybody kept their gentlemen's agreements. Cincinnati of the American Association signed Mullane for a bonus of \$2,000. St. Louis and Cincinnati took their dispute to the association's December meeting, where it was decided to award Mullane to Cincinnati, order Mullane to repay \$1,000 of his bonus, and then blacklist the pitcher for a year for yielding to the temptation of a free market. (*New York Times*, December 10, 1884, p. 3).

A more acrid dispute arose from the common ownership by John B. Day of clubs in both the National League and American Association. After the 1883 season, the Giants released "Tip" O'Neill, relief pitcher, for the purpose of signing him to a contract with the Mets in the American Association for 1884. Von der Ahe, of the St. Louis Browns, signed O'Neill first, and Day lost the services of a player who later became the best batsman in the American Association (*New York Times*, Dec. 17, 1883, p. 2).

The Mets won the 1884 American Association pennant even without O'Neill, but lost \$8,000 (*New York Times*, March 8, 1888, p. 3). This prompted Day to order Manager Jim Mutrie of the Mets to release Pitcher Tim Keefe and Third Baseman Tom Esterbrook and sign them to Giant contracts in the National League, where with 50 cent ball the prospects for profits with a good club seemed better. Keefe had won 35 games in 1884 and Esterbrook had batted .408. The infuriated members of the American Association first considered expelling the Mets from the league, then imposed a \$500 fine on the club and blacklisted Mutrie for his disloyalty (*New York Times*, April 28, 1885).

At the end of the 1885 season, Day sold his American Association club to the Staten Island Amusement Co., owned by Erastus Wiman, for \$12,500 in cash and \$12,500 in stock. This sale prompted the association to expel the Metropolitan Club on the grounds that the club was still a mere tool of John B. Day of the National League, was guilty of espionage at league meetings, and would be transferred to Staten Island to the financial detriment of the association (*New York Times*, December 5, 1885, p. 8; December 9, p. 2). Wiman went into court to protect his franchise and secured an injunction protecting his interest. The Philadelphia Court of Common Pleas called the American Association an "unincorporated association," which could not expel one of its members without notice, trial, and just cause. None of these elements was found present in this case.⁴⁷

To appease the American Association, Day gave his stock back to the Mets, thus ending baseball's first bitter experience with inter-

locking financial control and a situation which later came to be called "farming"—the control of players on one club by a person whose primary concern was in the success of another club.

After two unsuccessful seasons in which he lost \$30,000, Wiman sold the Mets' franchise to Brooklyn of the same association. Brooklyn took what players it desired, gave the franchise back to the association, and thereby eliminated one of its two metropolitan competitors (*New York Times*, October 9, 1887, p. 3; March 8, 1888, p. 3).

The 11 men or full-team reserve rule, which had been adopted in 1883, eliminated all competition for players already in the major leagues. Purchase of players from other clubs in the majors was also impossible under existing rules. This left only two methods of acquiring players from other clubs—gentlemen's agreements or the purchase of another club.

The leading example of a gentlemen's agreement was that involving Cleveland's manager and Brooklyn of the American Association in January 1885. Cleveland resigned its membership in the National League on January 3, which meant that its players would be eligible to sign with any club in 10 days. Manager Charles Hackett of Cleveland pledged seven of his players to sign with Brooklyn and then hid them in a small town on the Canadian border until they could legally be signed to Brooklyn contracts (*New York Times*, January 6, 1885, p. 1; January 8, p. 2).

Less risky was the outright purchase of another club. This was done by the Detroit Nationals on September 17, 1885, when they purchased the Buffalo Club in the same league in order to acquire the services of Buffalo's "Big Four"—Brothers, Rowe, White, and Richardson (*New York Times*, September 18, 1885, p. 3).

Crude practices such as these finally led to agreements which permitted the direct assignment of player contracts or reservation rights from one club to another. This forged the last link in the reserve rule and created in the player an asset which clubs could transfer for cash or other consideration.

Another innovation during this period was the first crude waiver rule, which was designed to keep a released player within the same league if another member club desired his services. For 10 days after the release of a player from his contract, only clubs belonging to the same league could claim his services. After the 10-day period, the player was eligible to sign anywhere (*New York Times*, October 18, 1885, p. 2).

PLAYER RECOGNITION OF THE RESERVE RULE

All of these restrictive agreements vitally affected the players' contractual rights, yet the players were never consulted. And although the uniform players' contract was drafted by the owners, it contained no mention of these restricted agreements.

When the National League and American Association announced in October, 1885, their intention to invoke a salary limit of \$2,000, they started a chain of events which culminated in what Mr. Simmons described as "the bloodiest war in baseball history." The announced

⁴⁷ *Metropolitan Base Ball Association et al. v. Simmons et al.*, 1 Pa. Co. Ct. 134 (Dec. 19, 1885).

salary restrictions brought the smoldering resentment of the players into the open. Said one New York player:

The time has arrived when the players must take some action in the matter. Since the organization of the league and American Association, the legislation has been solely in the interests of the clubs. The players have been ignored at every meeting, and restrictions one after another have been placed upon them until now they can stand it no longer. * * * Stockholders of clubs will find before long that they have placed the last straw on the camel's back. We make the money, and it is only just that we ought to get a fair share of the profits. (New York Times, October 19, 1885, p. 8).

Under the leadership of John Montgomery Ward, a New York player and later a practicing lawyer, the players organized the National Brotherhood of Professional Baseball Players. Through the public press, the brotherhood listed the players' grievances and demanded recognition to negotiate for the players. In an open letter to Nick Young, who in 1884 had replaced Mills as president of the National League, Ward claimed the reserve rule was—

a fugitive slave law which denied the player a harbor or a livelihood and carried him back, bound and shackled to the club from which he attempted to escape. Once a player's name is attached to a contract, his professional liberty is gone forever.

Despite this language, Ward recognized the business necessity of the reserve rule. His criticisms centered on the alleged evils which had been attached to it.

Ten years ago baseball was looked upon merely as a pastime. Individuals of means and leisure organized clubs for pleasure and were perfectly satisfied if at the close of the season the nine had won a fair majority of the games and receipts balanced expenditures. * * * Three institutions—the National League, the reserve rule, and the National Agreement—have changed entirely the nature of the game. What was formerly a pastime has now become a business, capital is invested from business motives, and the officers and stockholders of the different clubs include men of social standing and established business capacity (Notes of a Base-Ballist, Lippincott's magazine, August 1886, pp. 215-216).

No attempt has ever been made to defend (the reserve rule) on the grounds of abstract right. Its justification, if any, lay only in its expediency. It was a protective measure which gave stability to the game by preserving the playing strength of the teams, and it acted as a check on the increase of salaries. Its immediate results were clearly beneficial, opposition to it died away, and, notwithstanding the peculiar, if not servile, position in which it placed the players, they accepted it as for the general good (Is the Baseball Player a Chattel?, Lippincott's magazine, August 1887, pp. 310-319).

Among the alleged abuses which the owners had attached to the reserve rule, Ward listed (1) the reservation of players the club refused to sign to a contract; (2) the buying and selling of players, which he termed "a clear perversion of the original intent of the rule"; (3) the transfer of players by sale or by trade without the players' consent; (4) the blacklisting of a reserved player "for the mere refusal to sign upon the terms offered by the club"; and (5) the practice of farming or "loaning" a player to another club, "much the same as a horse is put out to work for his feed."

In 1887, the National League granted recognition to the brotherhood, and a players' committee met with the club owners to revise the uniform players' contract. The players, recognizing the necessity of the reserve rule, agreed to the insertion of a "reserve clause" in the contract, provided that no more than 14 players be reserved by any club and that no salary be reduced without the consent of the player reserved.

The text of the reserve clause was as follows:

SEC. 18. It is further understood and agreed that the said party of the first part shall have the right to "reserve" the said party of the second part for the season next ensuing the term mentioned in paragraph 2, herein provided, and said right and privilege is hereby accorded the said party of the first part upon the following conditions, which are to be taken and construed as conditions precedent to the exercise of such extraordinary right or privilege, viz:

I. That the said party of the second part shall not be reserved at a salary less than that mentioned in the twentieth paragraph herein except by consent of the party of the second part.

II. That the said party of the second part, if he be reserved by the said party of the first part for the next ensuing season, shall be one of not more than fourteen players then under contract; that is that the right of reservation be limited to that number of players and no more.⁴

The National League club owners also agreed to repeal the onerous salary limits, which never had been enforced. A year later, however, the owners voted to adopt a new salary classification scheme, by which players were to receive salaries graded from \$1,500 to \$2,500, according to their length of service. Although the owners announced that the rule was aimed only at newcomers, the players were convinced that the owners were something less than sincere in their concern for the players' welfare. They talked revolt and quietly set about to organize it.

THE PLAYERS LEAGUE WAR

On November 4, 1889, the brotherhood issued a manifesto to the public which revealed its intentions of forming a new league independent of the National Agreement. "There was a time when the League stood for integrity and fair dealing," the players announced. "Today it stands for dollars and cents." Terming the National League a combination "stronger than the strongest trust," the players outlined the alleged abuses of the reserve rule which had led them to take such drastic action. The brotherhood had secretly interested the necessary capital to form the new league during the 1889 playing season, and in open defiance of the league's "territorial rights" placed seven of its eight clubs in National League cities.

The National League, in its counter proclamation to the public, November 21, 1889, denied the players' charges and pointed out that the brotherhood itself adopted the principle of the reserve clause in its regulations. The Players League, in order to equalize the playing strength of its clubs, had adopted provisions for the compulsory assignment of players. Mr. Ford Frick in his testimony before the subcommittee confirmed this fact from conversations he had with John Montgomery Ward and other old-time players in 1926.⁵

The mass exodus of players to the Players League stripped the National League of its star performers and seriously crippled the American Association. Of the 124 players who participated in at least 10 games with the new organization, 81 were former National Leaguers, 28 had played in the American Association, and 15 were minor leaguers.

The formation of the "outlaw" Players League put in issue the exact meaning of the reserve clause in the uniform players' contract. Was it a negative covenant which would entitle the clubs to equitable relief to restrain players from leaving organized baseball? Or was it

⁴ Metropolitan Exhibition Co. v. Ward, 24 Abb. N. C. 393, 400 (1890).

⁵ Hearings, p. 121.

merely a recognition by the players of a restrictive agreement by clubs within organized baseball?

A. G. Mills, "father of the reserve rule," then looked upon his baby as enforceable against the clubs and not the players, despite the fact that he had expressed a contrary view at the time of the Day resolution in 1883.

The "reserve rule," as I formulated it for the use of the clubs of our alliance, placed its obligations upon (the) clubs (parties to the National Agreement), and prohibited them from employing or negotiating with players reserved to other clubs; the penalties prescribed for the violation of such reserve rule were placed upon the clubs and the Association of which they were members, and not upon the players, who were not parties to the compact (letter, A. G. Mills to Editor, *Sporting Life*, May 31, 1883, *Ms. Baseball Hall of Fame, Cooperstown, N. Y.*) [*Italics were Mills'.*]

The courts unanimously refused to enforce the National League's interpretation of the reserve clause, that it should restrain the players from leaving organized baseball. The New York Supreme Court held that by the National League's construction of the clause, it was lacking in definiteness and mutuality.⁵⁰ This view was also endorsed by the Philadelphia Court of Common Pleas, which held that to enforce the reserve rule against the player would render the contract unconscionable and lacking in mutuality.⁵¹

The United States Circuit Court for the Southern District of New York looked to business usage for the meaning of the reserve clause:

In the contracts between clubs and players as framed prior to November 1887, there was no provision by which the player consented to the option for reserve on the part of the club. But the contracts did contain a condition that the players should conform to and be governed by the constitution and provisions of the National Agreement, and the player thereby assented to become ineligible for engagement by any other club of the league during the season of his engagement by a particular club, or while the option of reengaging him for an ensuing year on the part of that club remained in force. Changes were made from time to time in various features of the National Agreement. The players were obliged to inform themselves of the latest changes in order to understand the precise terms of their contract with the clubs. They became unwilling to consent to a form of contract by which they were to be subjected to conditions not mentioned in the contract itself. In November 1887, a committee representing the professional players met a committee representing the parties to the National Agreement for the purpose of agreeing upon certain changes to be made in the form of the contract. The committees finally agreed that the obnoxious clause in the contract be omitted, and the clause now found in the eighteenth article be inserted. This was the origin of the clause giving to the club by the contract itself the option of reserve. * * * The clause was manifestly inserted in order to give, by an express condition, the right to reservation to the clubs which theretofore the players had only given by agreeing to be bound by the terms of the National Agreement.

The right of reservation is nothing more or less than a prior and exclusive right as against the other clubs to enter into a contract securing the players' services for another season. Until the contract is made which fixes the compensation of the player, and the other conditions of his services, there is no definite or complete obligation upon his part to engage with that club. * * * As a coercive condition which places the player practically, or at least measurably, in a situation where he must contract with the club that has reserved him or face the probabilities of losing any engagement for the ensuing season, it is operative and valuable to the club. But as a basis for an action to enforce specific performance it is wholly nugatory. In a legal sense, it is merely a contract to make a contract if the parties can agree.⁵²

⁵⁰ *Metropolitan Exhibition Co. v. Ward*, op. cit.

⁵¹ *Philadelphia Ball Club, Ltd. v. Hallman et al.* (8 Pa. Co. Ct. 57 (1890)).

⁵² *Metropolitan Exhibition Co. v. Ewing* (45 Fed. 198 at 203-204 (1891)).

Unable to restrain its players from jumping reservation, the National League resorted to other means to eliminate the competition of the Players League. Clubs parties to the National Agreement were threatened with expulsion if they played exhibitions with the new league; players were offered large salaries if they recanted and returned to their former employers; games were scheduled to conflict with those of the Players League wherever possible. As a consequence, patronage and gate receipts dwindled for both leagues. The Cincinnati Enquirer estimated attendance as follows:

NATIONAL LEAGUE		PLAYERS LEAGUE	
Boston	147, 539	Boston	197, 346
New York	60, 667	New York	148, 197
Brooklyn	121, 412	Brooklyn	79, 272
Philadelphia	186, 002	Philadelphia	170, 399
Cincinnati	131, 980	Buffalo	61, 244
Chicago	102, 536	Chicago	148, 876
Pittsburgh	16, 064	Pittsburgh	117, 123
Cleveland	47, 478	Cleveland	58, 430
Total	813, 678	Total	980, 837

As a life-and-death struggle, the Players League war succeeded admirably. Club backers in the National League and the Players League lost at least \$500,000. The players, many of whom had put their life savings into the new league, were bitterly disillusioned:

At the end of the season, both the embattled leagues accepted A. G. Spalding's plan for a merger. The ownership of the clubs in New York, Brooklyn, Pittsburgh, and Chicago were united. Players' league franchises in Cleveland and Buffalo were purchased and dissolved and those in Boston and Philadelphia were given to the American Association. So the bitter struggle ended with all hands the losers.⁵³

The peace was short-lived. A bitter dispute between the American Association and the National League over the division of players who had jumped to the Players League culminated, February 17, 1891, in the American Association withdrawing from the National Agreement. Four days later, the National League announced that by repudiating the National Agreement, the American Association—

has annulled the approval of the contracts its clubs have made with players, and its clubs have released all their players from reservation.⁵⁴

Chief benefactors of the renewed war were the players, who once more found themselves the objects of unrestrained competition. The reserve rule was no bar, and even some players who had signed contracts for 1891 with the American Association successfully repudiated these contracts on the ground that the association in withdrawing from the National Agreement had violated an integral part of their contracts.⁵⁵

The 1891 season was a disastrous one for both leagues. Twelve of the sixteen clubs were financial failures. At the close of the season both sides were willing to end the war. The National League bought four of the association's clubs for \$135,000 and invited the other four to join with them in a 12-club league.

⁵³ Hearings, p. 148.

⁵⁴ *Baltimore Base Ball and Exhibition Co. v. Childs* 1 Baltimore City 569, 172 (1891).

⁵⁵ *Baltimore Base Ball and Exhibition Co. v. Childs* 1 Baltimore City 569 (1891) and *Columbus Base Ball Club v. Rolly* (25 Ohio Dec. Rep. 272 (1891)).

THE PLAYER DRAFT

On March 1, 1892, the National and the minor leagues drew up a new national agreement, which included a major innovation—the player draft. Previously, the only mode of advancing players to the majors had been by purchase of the player's contract. The National League was unwilling to renew recognition of the minors' reservation rights which enabled the minor league clubs to sell players' contracts for what it thought were "hold-up" prices. The draft was installed as a compromise. The minors were divided into two classes, A and B, according to the financial strength of each league. In return for the right to reserve players, clubs in class A leagues and the National League were given the privilege of drafting players from class B clubs for \$500, and clubs in the National League the privilege of drafting players from class A clubs for \$1,000. Any minor league player was eligible for the draft, but the period of selection was limited to the period from October 1 to February 1 (New York Times, March 2, 1892, p. 6).

RETRENCHMENT AND RECESSION

The National League enjoyed a virtual monopoly throughout the nineties. The minor leagues existed at its tolerance, and neither a rival league nor a players' union existed to temper the actions of its 12 members.

The competitive struggles of 1890 and 1891 left the National League and its members with debt obligations which plagued the organization for another 15 years. To meet these debts, the clubs in 1892 rescinded the rules against playing games on Sunday and selling liquor on the grounds; voted 10 percent of all paid admissions to pay off league obligations; and acted individually to cut their own payrolls by 30–50 percent.

Players had to accept the salary terms offered them or leave organized baseball. Tony Mullane, unwilling to accept a salary cut in 1892, quit Cincinnati and pitched semipro ball in the Northwest. Amos Rusie, after leading the National League in strike-outs for six successive seasons and winning 24 games for New York in 1895, decided he deserved something better than a salary reduction from \$3,500 to \$3,400 in 1896. He held out for the entire season, believing that after a year his reserve clause would lapse and he would be eligible to sign with the highest bidder. When the New York Giants reserved him again in 1897, Rusie filed a suit in a New Jersey Federal court seeking \$5,000 damages and an unconditional release. The case was settled out of court.

The reorganized National League boldly faced its economic difficulties. A special committee was appointed in the winter of 1891–92 to distribute unsigned players so as to equalize the playing strength of the 12 clubs. In addition to rescinding the rules against Sunday games and the sale of liquor, the league voted to divide 25- and 50-cent admissions evenly between home and visiting club, after deducting the league's share. Charges in excess of 50 cents for box seats were retained by the home club. The purpose of this provision was to enable clubs in smaller cities to compete with clubs more favorably located in New York, Chicago, Philadelphia, and Brooklyn. Whereas the 1890 populations of the first three cities exceeded 1,000,000, and

that of Brooklyn was 806,000, five clubs were located in cities with populations less than 300,000—Cincinnati (297,000), Cleveland (261,000), Pittsburgh (239,000), Washington (230,000), and Louisville (161,000).

Mr. Frick testified that this provision for the equal sharing of gate receipts up to 50 cents is still embodied in the National League constitution.⁵² The only change is that the league takes only 5 percent for its operations instead of 10 percent. The rule, today, however, lacks the equalizing factor which prompted its adoption. The increase of admissions prices from the 25- to 75-cent range then in vogue to the present scale of 60 cents to \$3 has substantially reduced the visiting club's relative share.

The new national agreement, adopted in 1892, eliminated both of the safeguards granted to players in 1887, when the reserve clause was inserted into the contract. The first was the assurance that no reserved player would have his salary reduced; the second was the limit on the number of players a club could reserve. Individual player salaries, which had risen sharply during the 1890–91 wars, were slashed from 30 to 50 percent, but few clubs were in a financial position to expand their player rosters. Reserve lists for 1898 carried from 16 to 21 players for 11 of the National League clubs. Cincinnati reserved 33 (New York Times, October 7, 1897).

In 1892, the National League experimented with a split season, whereby the winner of the first half played the winner of the second half to determine the championship. When this failed to revive public interest in the sport, the league switched to a play-off system, whereby the first- and second-place clubs played a "Temple Cup Series" at the close of the season to decide the championship.

The National League ruthlessly suppressed any attempts to threaten its position of supremacy in the sport. In 1894, a group of promoters announced their intention of reviving the American Association. Among the promoters were Albert Buckenberger and William Barnie, who had managed National League clubs in 1894, and Fred Pfeffer, a National League player. The three men were given 6 weeks to prove they had abandoned the plan or else face permanent expulsion from organized baseball (New York Times, November 19, 1894, p. 9; December 21, p. 7).

Despite the fact that the National League completely dominated professional baseball during the nineties, it was never a financial success. Only two of the 12 clubs showed a profit in 1892. Nine clubs were profitable in 1894, but by 1898 only five clubs drew enough revenue to meet expenses.

The reasons were several. First, as explained by Mr. Simmons in his testimony, a 12-club league meant too many "also runs" which failed to excite public enthusiasm. Second, "rowdyism," engendered by the one-umpire system then in vogue, encouraged many patrons to stay away from the park. But a more basic reason was the decline in the game's integrity caused by what was called syndicate baseball.

During the chaotic years of 1890 and 1891, several of the more wealthy club owners had gone to the assistance of the weaker clubs in order to keep them going. The result was a certain degree of inter-

⁵² Hearings, p. 75.

locking ownership. Every succeeding financial crisis among the league members aggravated this situation until by 1899, hardly a club existed which did not have among its directors a stockholder of another club. As a consequence, several of the league clubs became mere tools of their competitors. After the 1898 season, Frank DeHaas Robison, disgusted with the decline in patronage at Cleveland, transferred his best players to his St. Louis club. The performance of the Cleveland team in 1899 was one of the worst in the annals of baseball history. The club won only 20 of its 154 games, drew only 6,008 fans at its 27 home games, and finished the season playing all of its games in other cities. A similar maneuver was manipulated by Von der Horst, who controlled both Brooklyn and Baltimore. Transferring his best players to Brooklyn, he won the 1899 pennant with comparative ease. League attendance meanwhile dropped from the 3 million level in the mid-nineties to 2,313,375 in 1898 and 2,541,845 in 1899.

The National League retrenched in 1900, abandoning its two weakest franchises in the East and in the West—Washington, Baltimore, Cleveland, and Louisville.

The culminating move by the ruling "syndicate" came in August 1901, when in a meeting at Red Bank, N. J., it voted to abandon all pretense of financial independence and combine the eight remaining National League clubs into the "National Base Ball Trust." Under this proposal, 66 percent of the stock in the new enterprise was to be distributed to the syndicate's promoters for their interests in New York, Cincinnati, St. Louis, and Boston. Stockholders in the other four clubs were to be offered 34 percent of the stock for their holdings.

The public reaction against the National League's practices during this period is fairly summarized by this extract from an editorial appearing in the Cleveland Plain Dealer, January 31, 1899:

The league authorities may keep on imagining the war, a natural off season, and a few other causes were responsible for the disasters of the season last past, but unless there is more of an effort to restore public confidence in the game and to court public patronage another season will see the downfall of the most grasping and most absolutely selfish and soulless monopoly in existence. The times are ripe for a revolution in baseball and just as revolution has most always followed tyranny that has become unbearable in greater affairs, it is bound to follow in baseball.

THE AMERICAN LEAGUE WAR

Such a revolution did follow—in three different spheres—after the end of the 1899 season. An attempt was made to reorganize the American Association independent of the national agreement; the Western League, a class A minor league, sought to place clubs in Chicago and Cleveland; and the players formed a new union, the League Players' Protective Association.

The National League successfully thwarted the designs of the American Association's promoters by permitting the Western League to purchase the vacated Cleveland territory and to place a club in Chicago in circumvention of the Cubs' "territorial rights."

The Western League changed its name to the American League in 1900 and when the season closed asked the National League for further concessions—the territory vacated by Baltimore and Washington. The National League, sensing the designs of the American League to become a major league, denied the request and touched off a new baseball war.

Clark Griffith, one of the promoters of the aspiring major league and presently the owner of the Washington Senators, described this war to the subcommittee in these words:

The thing that caused it was this. We had had the brotherhood; we had had the American Association; we had had everything, and it had all gone up in thin air. And the National League was the only league in the field, and they were failing. I remember being on the gate in Cleveland at one time. In the old days you pitched today and went on the gate tomorrow. And I counted up in Cleveland that there were 56 people at the ball game.

So we all recognized the fact—we had all been in other leagues in bygone days, Charlie Comiskey and Ban Johnson and all those fellows—we said that we would have to have another league, something, in order to bring baseball back into its own. And we applied, in a nice way, to the National League. We got the idea of the new league and applied to them for the territory that they had vacated, and they would not give it to us. Otherwise there would not have been any fight between the two leagues.

They would not let us have those franchises. They said, "We won't let you go into these towns."

We said, "We are going to go in, anyway."

That was what caused the fight between the two leagues. But the whole idea of the thing was that baseball was on its way down if something did not happen, because there had been a lot of leagues. You can look back in the history of baseball and see three leagues, and then the American Association was an opponent of the National League for many, many years, the old St. Louis Browns and all the famous teams. But it got to where they were put out of the picture. They could not go on any longer. And they had a 12-club league, and that was a flop.

Then the National League threw away 4 of those 12 clubs. And it just got to where baseball was on its way down.¹¹

Rebuffed by the National League, the American League not only went into Baltimore and Washington but also transferred clubs into Boston and Philadelphia, withdrew from the national agreement, and courted National League players to ignore their reserve clauses and sign with the new league. The American refused, however, to take contract jumpers.

Griffith himself was one of the players who jumped his reserve, deserting the Chicago Cubs for the White Sox on the South Side. He testified as follows:

Mr. GOLDSTEIN. Now, also in your misunderstanding, so to speak, with the National League, you did not recognize their reserve rule; is that not correct?

Mr. GRIFFITH. No, we did not.

Mr. GOLDSTEIN. So that in matters of territory and in terms of players being reserved to the National League, you were in elements of controversy?

Mr. GRIFFITH. Yes, sir. We would take a player off the reserve list, but we would not take one off a contract.

Mr. GOLDSTEIN. No. You took no contract jumpers, but you took what are known as reserve jumpers?

Mr. GRIFFITH. That is right.

Mr. GOLDSTEIN. As a matter of fact, you yourself jumped?

Mr. GRIFFITH. That is right.

Mr. GOLDSTEIN. You jumped the reserve list of the National League to the American League?

Mr. GRIFFITH. Yes.¹²

In an effort to halt the exodus of players to the new major league, the National League made several concessions to the newly organized League Players Protective Association in exchange for guaranties that the union's members would respect their reserve clauses. The most important of these concessions was the ban on farming. But the lure

¹¹Hearings, p. 518.

¹²Hearings, p. 518.

of higher salaries was stronger than union discipline, and the League Players Protective Association died quietly in 1902.

By repudiating the National League and accepting reserve jumpers, the American League was able to achieve status as a major league which would have been difficult, if not impossible, for it to achieve otherwise. Both Clark Griffith and William Harridge, the present president of the American League, so testified. Mr. Griffith testified as follows:

Mr. GOLDSTEIN. Now, have you any doubt that the American League would have failed except by taking the direct action that it did by going into the territory of the National League and taking players off the reserve of the National League?

Mr. GRIFFITH. I doubt it. We could not have been a big league for quite some time. You know, it takes time to develop ball players. You must remember this fact, that the American League was the American League 1 year before it was a big league. They called it the American League. And when they did start to expand, Connie Mack went from Milwaukee to Philadelphia, and the Kansas City club came to Washington, and so on.

Mr. GOLDSTEIN. So that actually it was this direct action that the American League took that finally gave it the opportunity to become a major league?

Mr. GRIFFITH. That is true.⁴⁹

Mr. Harridge, though less positive than Mr. Griffith, was generally in agreement with him as is shown by the following colloquy:

Mr. GOLDSTEIN. Do you remember or know that most of the players who came into the American League were reserve jumpers from the National League, not contract jumpers, but reserve jumpers?

Mr. HARRIDGE. That is true, as I remember it.

Mr. GOLDSTEIN. In other words, the American League had as one of its fundamental principles that it would not take a contract jumper but it would take a reserve jumper?

Mr. HARRIDGE. Back in those early days; yes, sir.

Mr. GOLDSTEIN. Have you any doubt unless these players had jumped over from the National League the American League would not be in existence today?

Mr. HARRIDGE. I think they probably would be in existence, but it probably would have been a more difficult struggle to reach major league status.

Mr. GOLDSTEIN. In other words, taking the reserve jumpers did expedite their development into a major league?

Mr. HARRIDGE. Because you already had a nucleus of major league players to build to.

Mr. GOLDSTEIN. Do you think it would have been desirable for organized baseball back in the late 1890's and 1900's to have placed the founder of your league, Mr. Ban Johnson, Mr. Clark Griffith, and others on the ineligible list for a 5-year period?

Mr. HARRIDGE. That, of course, goes back to the early history of baseball, and I wouldn't have any judgment on that.⁵⁰

Baseball historian Lee Allen reports that of 182 players appearing in American League games in 1901, 111 were former National Leaguers.⁵¹ The Spalding Baseball Guide, the official baseball guide for the National League, reported that 74 players jumped to the American League in the first 2 years of the war (Spalding Baseball Guide, 1902, p. 99). Attendance rose from 1,683,584 in 1901 to 2,200,457 in 1902, with six of the eight clubs showing profits in the latter year. Meanwhile, attendance in the National League dropped from 1,920,031 in 1901 to 1,681,212 in 1902.

The success of the American League forced the National to take drastic action to recover public support. The first step was the elimination of "syndicate baseball." A. G. Spalding, who had re-

⁴⁹ Hearings, p. 512.

⁵⁰ Hearings, p. 955.

⁵¹ Hearings, p. 218.

tired from an active role in league affairs following the brotherhood war, consented to run as the "antitrust" candidate against Nick Young, the syndicate's incumbent candidate, for the league presidency in December 1901. A 4-4 deadlock resulted in Spalding carrying his case against "syndicate baseball" to the public. The battle of words carried into the 1902 season with Spalding and his loyal four—Pittsburgh, Chicago, Philadelphia, and Brooklyn—gaining the upper hand. The impasse was finally broken by Andrew Freedman, leader of the syndicate, retiring from the control of the New York club, the abandonment of the "trust" scheme, and the election of Harry C. Pulliam as a compromise president.

Spalding's campaign against placing the eight National League clubs under the control of one holding company gains double significance when it is realized that he was a successful monopolist in other fields. During the preceding decade Spalding had organized holding company monopolies in both the sporting goods and bicycle industries (Arthur Bartlett, *Baseball and Mr. Spalding*, pp. 229-239). His opposition to a similar movement in baseball was based on the theory that the integrity of baseball as a sport, and therefore its financial success, depended on teams being competitors not only on the ball field but also in financial matters. Without bona fide competition for players, Spalding believed that the public would doubt the sincerity of playing competition in actual games.

The American League made further inroads on National League territory in 1902, when the Milwaukee franchise was transferred to St. Louis, which at that time was the largest city except Chicago which permitted Sunday games. At the end of the year, Ban Johnson, president of the American League, announced that the Baltimore franchise would be moved to New York, the last remaining financial stronghold of the older league which did not face competition.

The National League attempted sporadic suits in equity against its star players to restrain them from jumping to the new league. The most notable case was *Philadelphia Ball Club Ltd. v. Lajoie*, in which the Pennsylvania Supreme Court reversed the lower court and held that an injunction should issue to restrain Lajoie from violating his reserve clause. Lajoie had signed a contract with the Phillies for 1900, refused to be bound by the club's exercise of its option to renew (reserve clause) and signed with the Philadelphia Athletics for 1901. Lajoie's reserve clause differed from that in most contracts in two important regards: it was limited to 3 years and the salary, if such options to renew were exercised, was fixed at \$2,400 (202 Pa. 210 (1902), reversing 10 Pa. D. 309 (1901)).

Following this decision, the Athletics transferred Lajoie to the Cleveland American League Club, where the player performed for more than a decade and established a record which led to his being named to the Baseball Hall of Fame. Whenever Cleveland played at Philadelphia, Lajoie and Pitcher William Bernhard, another player similarly affected, enjoyed the sun at Atlantic City in order to avoid the Pennsylvania process. The Phillies' attempt to enforce the injunction in the Cuyahoga Common Pleas Court did not succeed. The Ohio court ruled, August 16, 1902, that it could not extend the process of a Pennsylvania court by enforcing its injunction decree in Ohio (*Philadelphia Baseball Club Co., Ltd. v. Lajoie*, 13 Ohio Dec. 504).

NEW PACTS TO GOVERN THE INDUSTRY

After more than 2 years of war, both leagues were willing to call a truce and exist together as equals. The formal cessation of hostilities over players and territory came January 10, 1903, when representatives from the two leagues signed the Cincinnati peace compact. This agreement provided for the mutual recognition of player contracts, reserve lists, and territories as they then existed. (For full agreement, see hearings, p. 519.) This document remained in effect until January 12, 1921, when the present major league agreement was executed. Most of the provisions in the Cincinnati peace pact are now found in the Major League Rules, which supplement the major league agreement. The circuits established by the peace pact have remained unchanged down to the present day. Boston, Chicago, New York, Philadelphia, and St. Louis are represented in both leagues. The National League in addition has clubs in Cincinnati, Pittsburgh, and Brooklyn; the American, in Cleveland, Detroit, and Washington.

The principal victims of the American League war were the minor leagues. The abrogation of the national agreement by the American League was followed a year later by similar action by the National League. This made any minor league club fair game for player raids by the two stronger leagues. To meet this crisis, seven minor league presidents met at Chicago, September 5, 1901, and formed the National Association of Professional Baseball Leagues. The purpose of this new association is evidenced by the following extract from the minutes of this meeting:

At this time President Powers arose and stated that the National League had recently abrogated the national agreement, thereby setting adrift all minor leagues and other clubs without further protection. Therefore, it was the proper time for minor leagues to band together for their own protection. Speaking for the Eastern League, he favored a declaration of independence and the upholding and continuing of the reserve rule independent of any other organization (J. B. Foster, A History of the National Association (1926) p. 44).

The National Association Agreement, adopted at New York, October 24, 1901, established a board of arbitration to govern the minor leagues. This board was given authority—

to impose fines or penalties upon associations, clubs, club officers, players, managers, scorers, and umpires, and to suspend any such organization or person from the protection and privileges of the national agreement in any instance in which, in its opinion, it or he shall have been guilty of conduct detrimental to the general welfare of the game or in violation of the letter or spirit of the national agreement (art. 4, 1901 National Association Agreement).

Leagues were divided into four classes, A through D, according to their population, and granted the right to draft players from leagues in a lower class for \$100 to \$300 per player. Each club could reserve 14 players. Players who violated such reserve lists were to be black-listed until reinstated by the board of arbitration for fines ranging from \$300 for class D players to \$1,000 for Class A players. Each league was granted exclusive control of its own territory. Monthly club salary limits were imposed ranging from \$900 in class D leagues to \$2,000 in class A leagues.

Originally drafted for 10 years, this national association agreement has continued to serve as the basis for minor league organization for half a century.

After the termination of the American League war, baseball leaders recognized the need for a central governing body which would be above either the major or the minor leagues.

The recommendation of A. G. Spalding, baseball's elder statesman was as follows:

Let each league, or each combination of leagues, together with the players have an equal representation on a board that might properly be called the Supreme Base Ball Court, this court to consist of, say three members, to be selected by each league, or each combination of leagues, and by the players in some way that could easily be devised, with a chief justice, or chairman, who would be the executive head of this court; this court to settle all disputes between leagues, between clubs of one league and clubs of another, between players and their employers; appoint and have charge of all the umpires; formulate the playing rules and direct and control all matters pertaining to the general government of the sport. This court could also arrange territorial rights on a fair and proper basis, and also the rights, management, and discipline of club officials, umpires and players, but not attempt to regulate the salary of players or the business management of the game further than is absolutely necessary to carry out and protect the game itself in all its integrity.

The chief justice, or chairman, of such a court should be clothed with ample power to carry out all its laws, providing, of course, for the right of appeal from his decision to the full court.

This court should select a corps of umpires which should be under the direct supervision and direction of the chief justice, or chairman. A sort of civil service would naturally suggest itself in handling the corps of umpires, and the writer believes one of the most difficult problems that baseball has had to contend with would, in a great measure, be overcome by such a course, for an umpire gain on a field in the smallest town or largest city, backed by the combined power of organized baseball, would command respect from magnate, manager, player and the public, and with proper and prompt punishment to those who criticized a umpire's rulings, a more satisfactory condition of umpiring would soon be brought about than exists today under the present system (Spalding's National Association Baseball Guide, 1902, pp. 133-134).

The major and minor leagues followed Spalding's suggestions—with two noteworthy exceptions. The players were excluded, and umpires were left to the jurisdiction of each league. The agreement establishing this supergovernment for organized baseball was the new national agreement, adopted September 11, 1903. In addition to the usual provisions for respecting contracts, reserve lists, and territorial rights, this document established a three-man national commission, cloaked with authority to rule the game, limited only by the provisions in the agreement itself. The members of the commission were the presidents of the American and National Leagues, who in turn selected the chairman.

Article V of the national agreement barred any change of major league circuits without majority consent from both leagues. If either league invaded minor league territory, it further had to pay the minor league \$2,500 and indemnify the minor league club affected for its lost assets.

Article VI recognized the right of reserving players. Any league not honoring contracts or reservation was to be considered an "outlaw" and an enemy of organized baseball.

The major leagues were permitted to draft an unlimited number of minor league players at the end of each season, provided only that any players not retained were returned to the clubs from which they were selected, and that no more than two players could be selected from any class A club. Player contracts could be purchased or traded at any time.

THE FARMING BAN

A major innovation of this agreement was a prohibition on "farming," the control of players on another club. Experience during the nineties had indicated that it was unfair to permit one club to control more players than it actually needed and to loan those players to other clubs for possible later recall.

The new national commission, comprised of Ban Johnson, president of the American League, H. C. Pulliam, president of the National League, and Chairman August Herrmann, president of the Cincinnati Club, early had occasion to invoke this ban on farming. In its third decision, it canceled a player loan by Detroit to Buffalo.

The subsequent history of this prohibition on farming is that of major league clubs devising methods to evade the rule and the national commission striving to plug up these loopholes. In 1905, the New York Giants secured approval for a working agreement plan, whereby in exchange for the release of players to a minor league club, the Giants secured the first pick of any member of the assignee club at the end of the season. A more popular method was the optional assignment, whereby the major league club ostensibly sold a player to a minor league club, retaining an option to repurchase that player. This practice became so flagrant that the national commission in 1907 ruled that no player could be optioned more than once (decision 327, November 16, 1907). A year later, the national commission adopted the further proviso that no such optioned player could be repurchased for less than \$300 (decision 406, August 13, 1908). Major league clubs had used the limited approval of optional assignments to sell and repurchase players for nominal figures.

The minor leagues openly criticized the option sale. They reasoned that it made more difficult the acquisition of players not needed on major league rosters. The American Association in 1908 asked the national commission to prohibit them altogether (decision 337, January 20, 1908). Other minor leagues forbade their members to accept players on optional assignments. The national commission voided such retaliatory legislation (decision 954, September 11, 1912), but found that curbs were necessary to keep the major league clubs from securing a player monopoly under this exception to the farming prohibition. In September 1911, it adopted a rule which limited to eight the number of option agreements any major league club could have at one time (decision 790, September 1911).

The major league clubs found other means of engrossing player talent by purchasing and drafting minor league players wholesale each fall. In this manner the richer clubs acquired several times the number of players they needed. In the spring, they took their pick and slanted the rest down to the minors, preferably to "friendly" clubs. Competing clubs were thus effectively precluded from using these players. In an effort to keep the player market open, the commission expanded the waiver rule to require that no player be sent to the minor leagues without the other 15 major league clubs having an opportunity to claim his services (decision 392, June 22, 1908; and decision 1151, February 25, 1914). If any club refused to waive on a player, it had the opportunity of purchasing that player by a forced sale in which the commission sat as final arbiter if the clubs could not agree on a price. The commission also commended

the National League for prohibiting the withdrawal of such waivers once they had been asked (fourth annual report). The National League, however, later retracted this rule.

As a further restriction on the monopolizing of player talent, the national commission recommended that the major leagues follow the example of the minors and adopt player limits. After the 1909 season, some of the richest and most enterprising clubs reserved in excess of 50 players. The exact numbers, as reported by the sixth annual report of the national commission, were as follows:

NATIONAL LEAGUE		AMERICAN LEAGUE	
Brooklyn.....	61	Cleveland.....	60
Cincinnati.....	52	Chicago.....	59
Chicago.....	50	Boston.....	55
New York.....	46	Philadelphia.....	55
St. Louis.....	45	New York.....	53
Pittsburgh.....	43	St. Louis.....	48
Boston.....	31	Detroit.....	43
Philadelphia.....	31	Washington.....	29

The recommendations of the national commission were adopted in the revised national agreement, July 20, 1912. Major league clubs were limited to 35 players except between May 15 and August 20, when the limit was 25. In the minors the limits ranged from 30 and 20 in the highest minor leagues to 22 and 14 in the class D leagues.

The ever-industrious major league club owners continued to devise new methods to control more players and thus get the edge on their competitors. The next method was the outright purchase of minor league clubs. Cleveland purchased Toledo in the American Association and Brooklyn acquired Newark in the International League. Earlier, in 1903 and 1904, Ned Hanlon, Brooklyn's manager, had used his own club at Baltimore as a place to keep control of, that is, to "cold storage," surplus players.

The National Commission interpreted these purchases of minor league clubs as a direct violation of the no-farming rule. On May 17, 1913, it issued a confidential bulletin to all major league clubs, declaring the ownership of a minor league club by a major league club or by one of its owners to be—

antagonistic of the rights of other major league clubs to recruit their teams and preventive of the promotion of players.¹²

The bulletin further ordered major league clubs to dispose of their holdings by January 1, 1914:

Fully realizing the financial sacrifice that would result from the enforcement of this ruling without warning, the commission will allow major league club owners who, without due consideration of its harmful effect upon organized baseball, have invested in a minor league club, a reasonable time not beyond January 1, 1914, in which to dispose of such holdings.¹³

Leslie O'Connor, secretary-treasurer to Commissioner Landis, 1921-44, testifying before the subcommittee, recalled this action by the national commission as follows:

In the days of the national commission * * * they had a specific statement in the rules that the practice of farming was prohibited. That was directed not to prohibiting ownership of minor league clubs, but it was directed to prohibiting gentlemen's agreements under which individual players would be cov-

¹² Hearings, p. 657.

¹³ Hearings, p. 675.

vered up, namely, that the ostensible employer of the player would not be his real employer, he would be held for the benefit of another club.

I believe the national commission issued a ruling that the ownership of minor league clubs was merely a method of accomplishing, in a wholesale way, a thing that was prohibited as to an individual case and therefore they required all clubs to sever their minor league ownerships.⁴⁴

THE UNIFORM PLAYERS' CONTRACT

As to the reserve rule itself, the national commission felt that all players in organized baseball should be subject to it if the rules for advancement of players through the draft or purchase were to work fairly for all clubs and players. Under rule 27, adopted in the first year, the national commission proclaimed that no player was to be free from reserve unless the reserve clause in his contract was stricken out or a positive statement was inserted that he was not reserved. The major leagues, with their requirement that all players sign a uniform contract, provided the commission with no difficulty. But the minor leagues were another problem. Claims by players not signed to any contracts or whose contracts contained no reserve clause became so numerous that the national commission, September 6, 1906, requested the national association to adopt a uniform players' contract and abolish nonreserve contracts. Pointing out that some clubs had as many as seven nonreserve players on their roster, the commission concluded:

This, we believe, will eventually result in defeating the drafting section of the national agreement, and, in addition thereto, will prevent minor league players from advancing in their profession; all of which is contrary to the letter and spirit of the agreement.

The commission's concern was for the players who were subject to reserve and placed at an extreme disadvantage when their comrades became free agents at the end of the season.

The recommendations of the national commission were substantially followed by an amendment to article VIII, section 1 of the national agreement in 1907. All players were required to sign a uniform contract, and no nonreserve contracts were to be recognized unless permission had been obtained from the national commission for major-league contracts or from the national board of arbitration of the national association for minor-league contracts (decision 269, March 1907). This requirement has remained unchanged down to the present day.

The most embarrassing case confronting the national commission in this matter involved Michael J. Kelley, player-manager of St. Paul in the American Association. Kelley joined St. Paul as manager and first baseman in the fall of 1901. On November 19, 1904, he also became president and general manager of the club. On January 19, 1905, he was elected chairman of the board of directors of the American Association. He never was under a written contract and his name never appeared on the reserve lists, which he as manager submitted each year. On August 16, 1905, Lennon, as owner of the St. Paul Club, sold Kelley to the St. Louis Browns. Kelley refused to report to St. Louis and appealed to the national commission for his free agency, arguing that Lennon had no right to sell him. The commission, December 7, 1905, denied Kelley's request because

⁴⁴ Hearings, p. 657.

(1) he had "unclean hands" for playing without a written contract and (2) a nonreserve agreement to be upheld must be in writing (decision 183).

Kelley went into the Federal court in the southern district of Ohio to enjoin August Herrmann, chairman of the national commission, from enforcing this decision. He claimed that St. Paul had no right to sell him and that if he refused to report to St. Louis, he would be blacklisted. The court held that Kelley was not a party to the National Agreement or the uniform players contract, that his verbal contract predated and was unaffected by the National Agreement, that the reservation provisions were neither expressed nor implied in Kelley's contractual arrangement with St. Paul, and that Kelley's contract may have violated the National Agreement on the part of the St. Paul Club but not on the part of Kelley. An injunction, therefore, was granted (*Kelley v. Herrmann*, 155 Fed. 887 (1906)).

The injunction failed to block the national commission. Herrmann withdrew his signature, and the other two members promulgated the decision.

BOYCOTTS

The national commission's hostility to the carrying of baseball disputes to the courts again was evidenced by decision 714, March 28, 1911. Reviewing an internal feud in the Three-I League, the commission ordered the Waterloo and Dubuque clubs to dismiss their lawsuits immediately or face expulsion from the National Agreement.

The threat of boycott proved an effective weapon against clubs organized outside the pale of the National Agreement. In 1904, an independent club in Hoboken, N. J., employed players reserved by minor-league clubs and scheduled Sunday exhibitions with clubs from New York City. The national commission declared the club "outlaw" for harboring ineligible players and forbade any club in organized baseball to play the Hoboken team (decisions 76 and 95, 1904). The ban was lifted, May 3, 1905, on condition that the Hoboken team put up a \$500 guaranty not to use organized baseball's reserved players and not to play with or against ineligible players (decisions 134, 141).

In 1905, the Tri-State League was organized independently of organized baseball and sought players from National Agreement clubs. The national commission retaliated by announcing that any player who jumped his contract would be forever ineligible to rejoin organized baseball, and reserve jumpers would be ineligible until reinstated at the discretion of the commission (decision 149, August 3, 1905). Unable to obtain players in the face of this threat, the Tri-State League was forced to seek admission to the National Agreement, which was granted in January 1907. The league was permitted to retain title to its ineligible players, provided they remained ineligible insofar as the rest of organized baseball was concerned. The national commission subsequently reinstated blacklisted players who could show "extenuating circumstances" to justify their reserve jumping or contract jumping.⁴⁵

A new "outlaw" league, the California State League, entered the field in 1907 to threaten the sanctity of organized baseball's reserve rule. The national commission again announced that contract

⁴⁵ See for example, decision 213, June 18, 1906, and decision 330, December 28, 1907, reprinted in the hearings, pp. 613 and 615, respectively.

jumpers playing in the outlaw league would be forever ineligible. Reserve jumpers were given 30 days to return to organized baseball or also face permanent expulsion (decision 315, October 14, 1907). Two years later, August Herrmann in his annual report triumphantly announced that the California State League, the last of the outlaws, had been taken into organized baseball.

The National Commission itself explained the purpose of this boycott in the Kling case, March 31, 1910.

Referring to the rule placing players on the ineligible list, it was adopted as a war measure against the California State League, a recognized outlaw organization. Word was sent out that any National Agreement club could negotiate for the services of any player in that league, the object being to break it up and secure all of its players possible. Since that league has been taken into organized baseball, however, nearly all of these players have applied for reinstatement, but in every instance the applications have been refused. The provisions of this rule are good ones in our judgment, and when players deliberately violate their contracts or while under reserve fail to report and join outlaw organizations they should suffer the consequences.⁶⁶ (Decision 597.)

During the testimony of Leslie M. O'Connor, the following colloquy was exchanged with counsel for the subcommittee on the purposes of these blacklisting provisions:

Mr. GOLDSTEIN. Do you know if at any time the concept of placing players on ineligible lists was also used as a device for the purpose of putting out of business competing outlaw leagues as distinguished from penalizing players for not respecting their contracts?

Mr. O'CONNOR. Well, I don't think anybody put a player on the ineligible list for the purpose of putting out of business a competing league. I think that you might say that that was an inevitable consequence of it, that it interfered to that extent with the inability of the other league to get those players because of the knowledge of the players that if they broke their contracts they would be regarded as ineligible. It certainly would be a handicap to them.

Mr. GOLDSTEIN (after reading the above excerpt from the Kling case). I wonder, if in your experience, this might refresh your recollection as to any case where the concept of placing players on the ineligible list, particularly in war situations, was predicated upon the putting the outlaw league out of business.

Mr. O'CONNOR. Well, Judge Landis and myself were never involved in a war situation, and as for myself, I have never heard anybody in baseball discuss the ineligibility rules from that standpoint. They have always regarded them from the standpoint that player discipline requires players observe their contract, and that is the only purpose of the ineligibility rules I ever heard discussed.⁶⁷

The national commission did not let down the bars on players who had jumped to the California State League until 1912. The last reported reinstatement was that of Monty C. Pfyl, October 2, 1913 (decision 1107).

The ineligible list was not limited to contract jumpers, reserve jumpers, or players guilty of "fixing games." It also was employed as a sanction against players or "hold-outs" who refused to sign contracts with their reserving club. An example of this was the case of Pitcher George Bell, a season-long hold-out with Brooklyn in 1906. The national commission fined him \$200 and reinstated him in December, announcing that—

in future cases of a like character, the fine to be imposed will be increased from time to time, with a view of entirely breaking up this practice of players (decision 251, December 26, 1906).

⁶⁶ Hearings, p. 620.

⁶⁷ Hearings, pp. 625-626.

As a result of a similar case involving Ty Cobb in 1913 organized baseball was almost subjected to a congressional investigation. The facts as explained to the subcommittee by Ty Cobb himself and supported by research conducted by the Library of Congress were these:

After leading the American League in batting for six successive years, Cobb asked Frank Navin, president of the Detroit Club, for a raise from \$9,000 to \$15,000. Navin refused, saying, "You will play for Detroit or you won't play for anybody and you will take what I offer." The salary dispute continued through the spring and into the playing season, with neither party budging from his original offer. Newspapers featured the incident, printing daily pronouncements from both Cobb and Navin.

By the rules of the national commission, Cobb was placed on the ineligible list when the season started for not having signed a contract. This procedure assured the Detroit Club that it would not lose Cobb to another club. When Navin persisted that Cobb would play with Detroit at a salary offered or never play in organized baseball, Senator Hoke Smith and Representative Hardwick of Georgia, Cobb's home State, expressed a desire for a congressional investigation of the controversy and asked Cobb to forward his contract to Washington for their study. The threat of a congressional investigation prompted Navin to reach a compromise with Cobb and within 10 days he signed a contract for \$12,000, the highest salary paid to any American League player at that time.

The national commission reinstated Cobb to eligibility, May 1, 1913, condemning him severely for his hold-out and fining him \$50. The Detroit Club was commended for its firm stand during the latter stages of the hold-out and censured for its former passive policy regarding Cobb. The commission also threatened to take action itself in the future if other clubs failed to discipline players whose conduct was "detrimental to baseball."⁶⁸

Representative Gallagher of Illinois later introduced a resolution calling for a Federal investigation of organized baseball as a "predacious and mendacious trust." This prompted many persons, including John M. Ward, who led the players' Brotherhood in 1890, to come to the defense of organized baseball. Said Ward:

Mr. Gallagher is correct when he says that baseball is now under the direction of an autocratic trust, but it is a good thing that it is. It cannot be successful without organization. The public cares little about the administration so long as the game is honestly conducted and it gets a run for its interest. It wants to be sure that the contest is a real one, and it insists more every year on having the best players who can be found. Baseball to be a success needs firm administration and regulation. It is the strongest trust in the world. It maintains strict discipline. It regulates the sport. However, it does not corner the necessities of life.

If baseball were not so highly organized the famous players of today might never have been heard of. Instead of the attention of the people being focused upon the great games there would be little ones in the back lots all over the town and the enthusiasm for the sport would be dissipated.⁶⁹

Ward had only one suggestion to make, the need for an arbitration board, representing both players and management, to handle disputes between players and management.

⁶⁸ Decision 1035, national commission, May 5, 1913, hearings, p. 1093.

⁶⁹ F. C. Richter, History and Records of Baseball (1914), pp. 224-225.

August Herrmann, in his annual report at the end of the year, reported that the Gallagher resolution had died in committee. The attitude of the national commission, he declared had been that—

a thorough and impartial inquiry by Congress or by the Federal or State courts will be welcomed by all connected with the game, in full confidence that the result will demonstrate that national agreement baseball is conducted on sound business principles with due regard to the constitutional and statutory privileges and rights of all parties engaged in it (tenth annual report, 1914, pp. lxix-lxx).

THE FEDERAL LEAGUE WAR

From the end of the American League war until 1914, all of organized baseball prospered. Attendance and profits in the major leagues reached unprecedented levels, and most clubs were in a position to build steel and concrete stadiums to replace their old wooden structures. The world's series, inaugurated in 1903, added immeasurably to the interest in the pennant races in both leagues. The number of minor leagues grew steadily from 13 in 1901 to more than 40 from 1910-13.

The most successful minor league was the reorganized American Association, admitted to the national association in 1903. Paid attendance in the American Association in 1911 was 1,433,477, over 40 percent of that in either the American and National Leagues. Believing that they were destined to become the third major league the American Association in 1911 submitted a list of demands to the national commission, including the right to have only one player a year drafted from its league by the majors and the right to be a separate party to the national agreement instead of being represented indirectly through the national association. The national commission sternly rejected both demands (decision 772, Aug. 31, 1911).

The only designs to promote a third major league were not inside organized baseball. In 1913, a group of wealthy sportsmen organized the Federal League, independent of organized baseball, with clubs in Cleveland, Chicago, St. Louis, Indianapolis, Pittsburgh, and Kansas City. During its first year the league did not sign either contract or reserve jumpers from organized baseball. All of its players were "free agents," players who had either been discarded by national agreement clubs or who had not yet signed a professional contract.

On November 2, 1913, the Federal League admitted clubs from Baltimore and Buffalo and announced its intentions to go "major league" in 1914. President Gilmore sought to have his league admitted to the protection of the national agreement, but he was told by Ban Johnson early in 1914 that there was not room for three major leagues.⁷⁰

This did not deter the promoters, who announced that they would initiate an antitrust suit against organized baseball if necessary to succeed. They announced that the reserve clause in players' contracts was not enforceable and sought to employ players under reserve by clubs in the major and high minor leagues. As President L. Edwin Goldman of the Baltimore Federals testified in a 1917 treble-damage suit:

⁷⁰ Record on Appeal, p. 773, *Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs, et al.* (259 U. S. 200 (1922)).

If you grant that the two major leagues that were then existent had selected the very best talent that existed in baseball, if we wanted to actually compete for public favor by having equal playing strength, undoubtedly we were driven to the ranks of organized baseball for those players.⁷¹

The national commission still had rules on the books from the war with the California State League which blacklisted contract jumpers indefinitely and reserve jumpers for 3 years. Because of these rules, most players in organized baseball refused to sign with the new league except for iron-clad contracts for 3 years at substantial increases in salary.⁷² This made the acquisition of new players extremely costly to the new league.

The endeavors of the Federal League to sign star players from the major leagues was described to the subcommittee by Ray Fisher, baseball coach at the University of Michigan, who at that time was a pitcher with the New York Yankees:

Mr. STEVENS. Did anyone approach you to go to the Federal League?

Mr. FISHER. Yes, a man named Fleming is the one I remember.

Mr. STEVENS. What club did he represent?

Mr. FISHER. Buffalo.

* * * * *
Mr. STEVENS. Did he offer you a higher salary than you were getting from the Yankees?

Mr. FISHER. He did.

Mr. STEVENS. Did you accept his offer?

Mr. FISHER. No, I didn't accept his offer.

Mr. STEVENS. Would you perhaps tell us what considerations influenced you in deciding whether or not to go to the new league?

Mr. FISHER. Well, I think it is true in any line of endeavor that you look for a little security, and where there is something just starting up like a new business, new league, or whether it be baseball or anything else, I think you kind of look forward to see if you exactly believe it is going to succeed or is not. In my case I felt that I would rather within a reasonable amount of money stay in the American League.

Mr. STEVENS. Did the fact that they made an offer to you have any effect on the salary which you were getting from the Yankees?

Mr. FISHER. I think they knew I was offered more money and I think they called me in and gave me a little extra money.

Mr. STEVENS. Do you recall approximately what your salary was with the Yankees?

Mr. FISHER. Well, at that time I suppose, I think they raised it up to \$6,500, which was not like \$6,500 under present-day conditions.

* * * * *
Mr. STEVENS. Do you recall that they made offers to a number of players, that is, the Federal League?

Mr. FISHER. I think they were approaching all the better ballplayers in the big leagues.⁷³

(Fisher received \$3,000 with New York in 1913 and a contract for \$4,000 in 1914. The new contract which Fisher refers to was for 3 years, 1915-17, at \$6,333.33 a year plus a \$500 bonus on his 1914 contract. Louis Heilbroner, Tabulated Records of the Federal League Players, 1917, Mss. Heilbroner Baseball Bureau, Fort Wayne, Ind. Fisher's contract is reprinted in full in the hearings, p. 1530.)

Other players in the major leagues were given similar increases in salary to remain faithful to organized baseball. This is indicated by the following table compiled from a study prepared by Louis Heilbroner for August Herrmann in 1917:

⁷¹ *Ibid.*, Record on Appeal, p. 297.

⁷² *Ibid.*, pp. 298-300.

⁷³ Hearings, pp. 430-431.

	1913 salary	1915 salary
Bush, Detroit (American League)	\$4,200	\$6,000
Caldwell, New York (American League)	2,400	4,000
Henz, Chicago (American League)	2,400	6,500
Chapman, Cleveland (American League)	2,400	3,500
Cobb, Detroit (American League)	12,000	20,000
Daubert, Brooklyn (National League)	5,000	9,000
James, Boston (National League)	2,400	6,000
Johnson, Washington (American League)	7,000	12,500
Killefer, Philadelphia (National League)	3,200	6,500
Maisei, New York (American League)	2,100	4,800
Marsauville, Boston (National League)	1,800	4,000
Milan, Washington (American League)	5,550	8,500
Peckinpaugh, New York (American League)	2,400	6,000
Rucker, Brooklyn (National League)	4,000	4,500
Rudolph, Boston (National League)	2,500	7,500
Sweeney, New York (American League)	5,500	8,000
Tyler, Boston (National League)	2,700	5,400
Weaver, Chicago (American League)	2,500	6,000
Wheat, Brooklyn (National League)	3,300	5,250
Wingo, St. Louis-Cluctmattli (National League)	2,600	6,500

1 4-year contract.
 2 5-year contract.
 3 3-year contract.

Four of the above players—Ray Caldwell, Walter Johnson, Wade Killefer, and Ivy Wingo—jumped their reserve to sign contracts with the Federal League and then were persuaded to break these contracts and return to their former clubs.⁷⁴

Mr. Clark Griffith, president of the Washington American League club, described the case of Walter Johnson to the subcommittee in the following colloquy with counsel and the chairman:

Mr. GOLDSTEIN. * * * some of your players from Washington jumped over; did they not?

Mr. GRIFFITH. Yes; one of them.

Mr. GOLDSTEIN. A fellow named Groom. There was a fellow named Groom, I believe, who jumped over to the St. Louis Federals?

Mr. GRIFFITH. That is right; Groom and Ehmke are the only ones that I remember.

Mr. GOLDSTEIN. How about LaPorte?

Mr. GRIFFITH. Yes. He went to one of those teams.

Mr. GOLDSTEIN. Now, Walter Johnson was with you in 1913, and he jumped over to the Federal League, too?

Mr. GRIFFITH. He signed with them, but he never played with them.

Mr. GOLDSTEIN. While he was under reserve to you?

Mr. GRIFFITH. Yes.

Mr. GOLDSTEIN. And then after he signed a contract with the Federal League, did you offer him a better contract to come back and play with you?

Mr. GRIFFITH. I do not know whether it was better. I cannot remember his contract with the Federal League. But I went out and saw him and talked to him, and I told him he did not belong in that league, and he had better come back to me, and he said all right. He returned their money, and he came back to me in Washington.

The CHAIRMAN. Did he have a contract with them?

Mr. GRIFFITH. He had signed in the wintertime to play with them the following year. He never played with them.

The CHAIRMAN. But he did have an obligation to play with them?

Mr. GRIFFITH. Yes, sir. Yes; he had signed a contract.

The CHAIRMAN. You induced him to come back to you?

Mr. GRIFFITH. I went out to see him and talked to him and he said he would forego his contract with them, and he'd come back with the Washington club.

Mr. GOLDSTEIN. At the time he left you to go to the Federal League he was, probably, making around \$12,000, was he not?

⁷⁴ Record on appeal, op. cit., pp. 644-646, 259 U. S. 200.

Mr. GRIFFITH. I would think so. I was under the impression that his contract was \$12,500 at that time.

Mr. GOLDSTEIN. When he came back, you gave him a 4-year contract at \$20,000 a year?

Mr. GRIFFITH. I think I did. I think that we did.⁷⁵

In attempting to dissuade players from jumping to the Federal League, organized baseball not only offered liberal salary increases but also cited the blacklisting consequences which would ensue if the league failed. Clark Griffith, when informed that Ehmke contemplated deserting to the Federal League, wrote the player November 30, 1914, that—

if they [the Federal League] fail, after you signed with them, I would not take you or any other players back.⁷⁶

The reserve clause in the 1913 uniform player's contract read as follows:

1. The compensation of the party of the second part stipulated in this contract shall be apportioned as follows: 75 percent thereof for services rendered and 25 percent thereof for and in consideration of the player's covenant to sanction and abide by his reservation by the party of the first part for the season of 1914, unless released before its termination in accordance with the provisions of this contract. The party of the second part shall be entitled to and shall be paid the full consideration named herein in regular semi-monthly installments, unless released prior to the termination of this contract in accordance with section 8 hereof, regardless of whether or not the contracting club exercises the privilege of reserving the party of the second part for the season of 1914.

10. In consideration of the compensation paid to the party of the second part by the party of the first part as recited in clause 1 hereof, the party of the second part agrees and obligates himself to contract with and continue in the services of said party of the first part for the succeeding season at a salary to be determined by the parties to such contract (*Weephman v. Killefer*, 215 Fed. 168, 169-170 (1914)).

After the Federal League war began, the 1914 contracts were changed to read as follows:

1. The club agrees to pay the player for the season of 1914 * * * a salary at the rate of — for such season; and an additional sum at the rate of — for such season, said additional sum being in consideration of the option herein reserved to the club in clause 10 hereof; said additional sum to be paid whether said option is exercised or not, making the total compensation to the player for the season herein contracted for —.

10. The player will, at the option of the club, enter into a contract for the succeeding season upon all the terms and conditions of this contract, save as to clauses 1 and 10, and the salary to be paid the player in the event of such renewal shall be the same as the total compensation provided for the player in clause 1 hereto, unless it be increased or decreased by mutual agreement (*American League Baseball Club of Chicago v. Chase*, 86 N. Y. Misc. 441 (1914), at p. 447).

Shortly after the Federal League announced its intentions to ignore the reserve clause, August Herrmann announced in a speech at Columbus, Ohio—

an effort will at all times be made by us looking toward the respecting of this, as well as any other clause in a player's contract. * * * For those players who do not respect their obligations there will be no place in organized baseball, either now or in the future * * *.⁷⁷

⁷⁵ Hearings, p. 536.

⁷⁶ Hearings, p. 537.

⁷⁷ Record on Appeal, p. 712 Baltimore Federal League Case, *supra*.

Despite this language, some baseball leaders apparently felt that the reserve clause was not binding in courts of law or equity. Herrmann testified during the Baltimore Federal League case that the reserve clause had been used only as a matter of internal protection within organized baseball and, in his opinion, that was the only way it should be used—"to protect yourself."

The reservation is not to monopolize the player market—

Herrmann testified—

but rather to limit it to the extent that no club can have more players on its reservation list than are actually needed for its own purposes.

Later, Herrmann was cross-examined as to the exact interpretation organized baseball placed on the reserve clause:

Q. Why should not the Federal League bid for their services if they wanted to?—A. I was under the impression that when a minor league club paid a player a certain stipulated sum for the right of reservation, they had a right to retain that player's services.

Q. How long?—A. Until he signed another contract.

Q. Suppose he did not want to sign another contract, could not agree on terms?—A. That was up to the player.

Q. Then what happened to him?—A. That would end it.

Q. If that were the case, why would not the Federal League be at perfect liberty to come and employ that same player?—A. I would say that they would be, and have a perfect right and did have.⁷⁵

Organized baseball made no attempt to secure the assistance of State or Federal courts to restrain players from jumping their reserve. The only suits brought were against contract-jumpers. Three players, Pitchers Davie Davidson and George Johnson and Outfielder Ammando Marsans, jumped Cincinnati contracts early in 1914. As a consequence, Cincinnati dropped from first to last place in the National League. The district court in the Eastern District of Missouri granted an injunction against Marsans to restrain the defendant from playing for any other club than Cincinnati (*Cincinnati Exhibition Co. v. Marsans*, 216 Fed. 269 (1914)), but a similar injunction in Illinois against Johnson was reversed and dissolved on appeal. The grounds for this reversal were that the contract lacked mutuality of remedy because of the clause which permitted the club to release the player on 10 days' notice (*Cincinnati Exhibition Co. v. Johnson*, 190 Ill. App. 630 (1914)). None of the three players returned to Cincinnati.

A more dramatic case was that involving Hal Chase, a first baseman with the Chicago White Sox. Chase served the club with 10 days' notice that he was canceling his \$6,000 contract and then signed with the Buffalo Federals. Chicago obtained a temporary restraining order, June 25, 1914, but was unable to make the injunction permanent. In denying the injunction, Judge Bissell of the New York Supreme Court held:

It seems that the promotion of the ballplayer is also hedged about with such limitations as to make the property in him absolute whether he will accept terms or not, and to make those terms when arrived at only liberal enough to prevent the player from seeking other means of earning his livelihood * * *. His only alternative is to abandon his vocation * * *. The absolute lack of mutuality, both of obligation and of remedy, in this contract, would prevent a court of equity from making it the basis of equitable relief by injunction or otherwise (*American League Baseball Club of Chicago v. Chase*, 86 N. Y. Misc. 441 (1914)).

⁷⁵ *Ibid.*, pp. 690, 695, 735-736.

Judge Bissell also considered the monopoly aspects of baseball in connection with the Federal League's defense of unclean hands.

It is apparent from the analysis already set forth of the agreement and rules forming the combination of the baseball business, referred to as "organized baseball," that a monopoly of baseball as a business has been ingeniously devised and created insofar as a monopoly can be created among freemen; but I cannot agree to the proposition that the business of baseball for profit is interstate trade or commerce, and therefore subject to the provisions of the Sherman Act * * *. The foundation of the national agreement is the game of baseball conducted as a profitable business and if this game were a commodity or an article of merchandise and transported from State to State, then, the argument of the defendant's counsel might be applicable (citing *U. S. v. Swift & Co.*, 122 Fed. 531, and *U. S. v. Knight Co.*, 156 U. S. 13).

[But, the national agreement does result in] a species of quasi peonage unlawfully controlling and interfering with the personal freedom of the men employed. * * * "Organized baseball" * * * is in contravention of the common law in that it invades the right of labor as a property right; and in that it invades the right to contract as a property right; and in that it is a combination to restrain and control the exercise of a profession or calling.

* * * * *
The quasi peonage of baseball players under the operations of this plan and agreement is contrary to the spirit of American institutions, and is contrary to the spirit of the Constitution of the United States (*ibid.*, pp. 459-461, 465).

Organized baseball, for a change, won a legal victory in *Weeghman v. Killefer*, an action brought by the president of the Chicago Federals to restrain Killefer from jumping his contract and returning to the Philadelphia Phillies. The Circuit Court of Appeals of the Sixth Circuit affirmed the decision by the district court and denied Weeghman's bill in equity on the grounds of unclean hands. The court supported the tenuous distinction offered by George Wharton Pepper, defendant's counsel, that while the reserve clause was not enforceable, it was nevertheless legal and that plaintiffs in inducing Killefer to violate it had unclean hands:

It is a matter of indifference, then, that the clause of reservation did not amount to an ultimate mutual obligation; it was not avoided, as it might have been, in an honest way, but was consciously set aside and ignored to the manifest injury of the Philadelphia Club.

Killefer had played with the Phillies in 1913 for \$3,200. After promising to play with the same club in 1914, he signed a 3-year contract with the Chicago Federals at \$5,833.33 per season, January 8, 1914; 12 days later he signed a 3-year contract with the Phillies, his reserving club, at \$6,500 a season (*Weeghman v. Killefer*, 215 Fed. 289 (1914), affirming 215 Fed. 168 (1914)).

Organized baseball was unable to keep the Federal League from acquiring players either by court action or by extra-legal sanctions. According to a study prepared by Louis Heilbroner, 221 of the 264 players employed by the new league in 1914 and 1915 had jumped from clubs in the major or minor leagues; 18 had jumped major league contracts, 25 had jumped minor league contracts; 63 jumped reservation by major league clubs; 115 jumped reservation by minor leagues. Another 25 were free agents with previous experience in organized baseball, and 18 had no previous professional experience.

The Federal League backers built eight new parks in 3 months and opened the 1914 season confident of success. Unlike leagues under the national agreement, it was organized as a corporation with the stock divided evenly among the eight member clubs—Chicago, Kansas City, St. Louis, and Indianapolis in the West and Buffalo, Pittsburgh,

Baltimore, and Brooklyn in the East. In 1915, the Indianapolis franchise was transferred to Newark. Standard printed contracts contained options to renew in the following form:

9. It is understood and agreed that after the player has given services in the Federal League for any portion of 10 different years, the said player shall be given, if he demands it, his unconditional release.

10. The club owner shall have the exclusive right and option of extending this contract from year to year upon like conditions, except that the compensation to be paid the player shall be 5 percent each year in excess of the sum named in this contract, provided that written notice of the exercise of such option shall be given to the player on or before September fifteenth.

Contracts could be assigned with the players' consent as in organized baseball.⁷⁹

Although the pennant races in the new league in 1914 and 1915 were the closest in major league history, attendance did not equal that of either the American or National leagues. The second-place Chicago Federals, first in attendance in 1914, drew fewer fans than the sixth-place Chicago Americans, who attracted 469,290 paid admissions. By the middle of June 1915, it was evident to the Federal backers that the league was doomed to failure. Investments and losses from operations reached \$2½ million by the end of 1915. Brooklyn's losses alone were "considerably over \$800,000."⁸⁰

Leagues in organized baseball also were writing their books in red ink. The combined effects of the Federal League war, general economic depression, and the war in Europe reduced attendance in the American League from 3,526,805 in 1913 to 2,747,591 in 1914 and 2,434,684 in 1915. National League attendance fell from an average in 1910-13 to 1,707,397 in 1914 and 2,430,142 in 1915. Attendance in the American Association dropped from 1,290,320 in 1913 to 794,283 in 1915. Of 40 minor leagues starting the 1913 season, only 23 finished the 1915 campaign; 26 of the clubs in the American League, National League, Federal League, American Association, and International League reported operating losses reaching \$1,250,000 in 1914. The worst hit was the International League, where every club lost money. (New York Times, January 31, 1915, IV, p. 1.)

On January 5, 1915, the Federal League played its trump card and filed a suit in equity against organized baseball in the United States District Court for Northern Illinois in Chicago under the Sherman Antitrust Act. The bill asked the court to declare the national agreement illegal, dissolve the alleged combination maintained by that agreement, declare the acts of the national commission void, declare all contracts made under the national agreement of no effect, and order organized baseball to dismiss all injunction suits against Federal League players, and restrain defendants from instituting any more such suits.

The trial ended on January 22, but the presiding judge, Kenesaw Mountain Landis, never rendered a decision. After waiting 11 months for a verdict, the Federal League acquiesced to a peace offering by the National League at Cincinnati, December 13, 1915. Under the final peace agreement, signed December 22, in return for the dissolution of the Federal League, the major leagues agreed to pay its backers \$600,000, permit the Chicago Federals to buy out the Cubs

⁷⁹ Record on appeal, Baltimore Federal League case, pp. 125-131, 154, 211-216, 292-297.

⁸⁰ Ibid., pp. 531, 599, 602, 670.

and the St. Louis Federals to buy out the Browns, reinstate all ineligible players, and permit the Federal League owners to sell their player contracts to major league clubs. All players not purchased reverted to their former club in organized baseball. The Federal League succeeded in selling 17 players for \$129,150.⁸¹

The only dissatisfied party to the peace conference was the Baltimore Federal League Club, whose backers demanded permission to purchase the St. Louis Cardinals and shift the franchise to Baltimore. Baltimore's 1910 population exceeded that of Washington, Detroit, Cincinnati, or Cleveland, and St. Louis was already finding it impossible to support two clubs in major league style. Despite these facts, the National League club owners refused to consent to the sale. The Baltimore representatives thereupon left the meeting⁸² and filed a complaint with the Antitrust Division of the Department of Justice. When Assistant Attorney General Todd expressed the opinion that organized baseball was not in violation of the antitrust laws, the American and National Leagues completed their peace agreement with the Federal League, omitting any settlement with the Baltimore Club. On March 29, 1916, the Baltimore Federal League Club brought a treble damage suit under the Sherman Act in Philadelphia. This action was withdrawn when it came to trial in June 1917 (Confidential Bulletin 1380, National Commission, June 19, 1917) and on September 20, 1917, reinstated in the district court in the District of Columbia. After a 2-week trial in April 1919, Judge Stafford held as a matter of law that the activities of organized baseball constituted an attempt to monopolize the business of baseball exhibitions for profit within the meaning of the Sherman Act. The jury determined damages to be \$80,000. Judge Stafford entered judgment for \$240,000 plus \$24,000 attorney fees, May 16, 1919.

On appeal to the Court of Appeals of the District of Columbia, Chief Justice Smyth reversed the decision of the trial court on the grounds: (1) That the business of giving baseball exhibitions was a sport and not trade or commerce as it "effects no exchange of things," and (2) that the reserve clause and the ineligible lists did not have a direct effect on the interstate features of plaintiff's business, the movement of its players and paraphernalia in interstate commerce. Wrote Justice Smyth:

If the reserve clause did not exist, the highly skillful players would be absorbed by the more wealthy clubs, and thus some clubs in the league would so far outstrip others in playing ability that the contests between the superior and inferior clubs would be uninteresting and the public would refuse to patronize them. * * * The reserve clause and the publication of the ineligible lists, together with other restrictive provisions, had the effect of deterring players from violating their contracts, and hence the Federal League and its constituent clubs, of which the appellee was one, were unable to obtain players who had contracts with the appellants; in other words, these things had the intended effect, viz, of preventing players from disregarding their obligations (and) the preservation by each club of its necessary quota, and no more, of players. * * *

Justice Holmes, speaking for a unanimous Supreme Court, affirmed this decision 2 years later (*Federal Baseball Club of Baltimore, Inc. v. National League et al.*, 259 U. S. 200 (1922)).

⁸¹ Ibid., pp. 285-291, 564-568, 710.

⁸² Ibid., pp. 531-534, and minutes of Waldorf Astoria meeting of December 22, 1915, pp. 147-159, appended to respondent's brief in the Baltimore Federal League case.

⁸³ 299 Fed. 661 and 50 App. D. C. 162.

The new major league rules, adopted by the major league club owners in January 1921, followed closely the provisions of the old national agreement. No club could transfer its franchise without unanimous consent of its league and majority consent of the other league. The reserve limit was increased from 35 to 40, and each club could option a maximum of eight players for no more than 2 years apiece. All player contracts were assignable on written notice to the player except that no 10-year veteran could be assigned to the minor leagues without his written consent. Before any player could be assigned outright to the minor leagues, other major league clubs could claim him at a \$7,500 waiver price.

Landis inserted the following footnote to these waiver rules:

The waiver rules are for the benefit of the players, as well as the clubs. No club, therefore, should solicit another club, directly or indirectly, not to claim a player on waivers, or to withdraw a claim that has been made. Penalties will be imposed by the Commissioner for so doing, or for acceding to such solicitation (art. II, sec. 11).

The old rule against "farming" was retained with a more narrow definition:

Player loan prohibited.—All right or claim of a major league club to a player, unless it be under an optional agreement approved by the commissioner, shall cease when such player becomes a member of a minor league club, and no arrangement between clubs for the loan or return of a player other than by an approved optional agreement shall be binding between the parties to it, or recognized by other clubs (art. II, sec. 13 (g)).

Grounds for blacklisting players were listed in article II, section 17:

Any player who violates his contract or reservation, or who fails to report to his club within 10 days after the opening of the championship season, or who participates in a game with or against a club containing or controlled by ineligible players or a player under indictment for conduct detrimental to the good repute of professional baseball, shall be considered an ineligible player and placed on the ineligible list. The commissioner may also at any time determine, either of his own motion or at the request of a league or club, that the best interests of the game require a player to be declared ineligible, and after such declaration no club shall be permitted to employ him unless he shall have been reinstated.

During the first years of his administration, Judge Landis blacklisted approximately 15 players, including the 8 Black Sox, from the game for life for "conduct detrimental to baseball." For players who jumped their contract or reservation or who failed to report, he was more lenient. Instead of the automatic 3- or 5-year ban employed by the national commission and in the minors by the board of arbitration, Landis reinstated such players when they could show that they had dissociated themselves from clubs outside of organized baseball for 1 year. (See decisions reprinted, hearings, pp. 627-628.)

Two days after signing the major league agreement, the major leagues entered a Major-Minor League Agreement with the national association. The minor leagues agreed to recognize the commissioner and to submit to his authority finally to determine all disputes and to take punitive action for conduct detrimental to baseball. They also agreed to permit the majors to draft players from the minor leagues, provided that the majors signed only college players from among players outside of organized baseball. Only one player could be selected each year from each class A and AA club; from classes B, C, and D, the draft was unrestricted. Draft prices ranged from \$1,000 for class D players to \$4,000 for class A players and \$5,000 for

class AA players. Minor leagues could exempt themselves from the draft if in turn they relinquished their right under the National Association Agreement to draft players from lower leagues. Five minor leagues—the American Association, the International League, and the Pacific Coast League (all class AA), the Western League (class A), and the Three-I League (class B) availed themselves of this draft exemption for up to 10 years.

Detailed regulations for major-minor league affairs were reserved for the Major-Minor League Rules. These rules, which essentially followed the Major League Rules, could be amended only by the mutual consent of the major leagues and the national association.

The twenties brought a new era of prosperity to professional baseball, particularly in the major leagues. Average club attendance was 50 percent above the previous decade.

By far the most successful major league enterprise was the New York Yankees, which earned more than \$3½ million from 1920 to 1930, inclusive. The weakest was the Boston Red Sox, which annually wrote its books in red ink. And this was no accident.

Prior to 1919, the Boston Red Sox had been one of the strongest clubs in the American League. Then, in a series of transactions called the rape of the Red Sox, by baseball historians, the club sold all of its outstanding players to the New York Club. The sales were necessitated by the Yankee owners' extension of credit to pay for back debts incurred by Harry Frazee when he acquired the Boston Club.

These transactions were brought to the attention of the subcommittee in the following colloquy between Commissioner Ford Frick and counsel:

Mr. STEVENS. Mr. Frick, first I would like to ask you if you are familiar with a series of episodes in baseball history which are sometimes referred to in baseball literature as the rape of the Red Sox, which took place allegedly back in 1919, 1920, and 1921.

Mr. FRICK. Only by hearsay. That is a little bit before my time.

Mr. STEVENS. Well, just so that my questions will be in focus, Mr. Chairman, I would like to read into the record the standings of the Boston Red Sox and the New York Yankees over a period of years in those seasons.

In 1914 the Red Sox were in second place and the Yankees tied for sixth. In 1915 the Boston Red Sox were in first place and the Yankees tied for fifth. In 1916 the Red Sox were first and the Yankees fourth. In 1917 Boston was second and the Yankees sixth.

1918, Boston was first and the Yankees were fourth; 1919, New York was third and Boston sixth; 1920, New York third, Boston fifth; 1921, New York first, Boston fifth; 1922, New York first, Boston eighth; 1923, New York first, Boston eighth.

1924, New York was second, Boston seventh, and for 1925, 1926, 1927, 1928, 1929, 1930, and 1932, Boston was in last place and the Yankees were at or near the top.

Now, the transition occurred in the years to which I earlier referred. Are you familiar, Mr. Frick, with the fact that several Red Sox players were traded to the Yankees during the years 1919, 1920, and 1921?

Mr. FRICK. Oh, yes; I am quite familiar with it as a fan, not as an official in baseball; but yes; I remember it very well.

Mr. STEVENS. Some of those would be, just to name a few, Dutch Reuther, Carl Mays?

Mr. FRICK. Babe Ruth, Herb Pennington, Waite Hoyt, Everett Scott.

Mr. STEVENS. Perhaps the most notable deal would be which one?

Mr. FRICK. The Babe Ruth deal.

Mr. STEVENS. Are you aware of the consideration that passed in that deal?

Mr. FRICK. No, I am not.

Mr. STEVENS. Some of the baseball literature from which I will not take the time to read, indicates that the cash consideration was \$100,000, plus a loan of \$350,000 from Colonel Ruppert [owner of the Yankees] to the Boston Red Sox, secured by a mortgage in the amount of \$350,000 on Fenway Park.

Is it your understanding that it is generally believed that that was substantially the transaction?

Mr. FRICK. Well, the newspapers carried that very generally at the time.

Mr. STEVENS. There is also a book called, My Fifty Years in Baseball which was written by the former manager of the Red Sox at that time, which indicates those facts.

Mr. FRICK. Mr. Barrow?

Mr. STEVENS. Yes. I will not bother to read from it, but after the Babe Ruth deal, when Colonel Ruppert had the mortgage on Fenway Park, is it your understanding that a large number of players were transferred from the Red Sox to the Yankees?

Mr. FRICK. There were a great many deals made between the Red Sox and the Yankees in that period, yes.

Mr. STEVENS. And the over-all effect of the deals was that which is indicated by the statistics which I read?

Mr. FRICK. I would think the standing of the clubs would be the answer to that, yes.

Mr. STEVENS. It is generally believed—is it not—that the trades were a material factor in this shift of the positions of the clubs?

Mr. FRICK. Yes; I think so.⁶⁹

(Edward G. Barrow in his autobiography, My Fifty Years in Baseball (pp. 102-140), lists the following players who were transferred from Boston to New York between 1919 and 1923: Pitchers Ernie Shore, Dutch Leonard, Carl Mays, Waite Hoyt, Joe Bush, Sam Jones, and Herb Pennock; catcher Wally Schang; Infielders Mike McNally, Everett Scott, and Joe Dugan; and Outfielders Duffy Lewis, Babe Ruth, and Harry Hooper. Barrow was manager of Boston, 1918-20, and business manager of the New York Yankees, 1921-45.)

Another incident of conflicting financial interest which cast unfavorable light upon baseball arose after the 1926 season. The St. Louis Cardinals traded Rogers Hornsby, their player-manager and also a minority stockholder, to the New York Giants. Concern over a possible repetition of the Red Sox-Yankee situation and of public distrust in games between the Giants and Cardinals led Judge Landis to order Hornsby to sell his stock. This action was endorsed by the club owners, who at the joint major-league meeting in New York, December 15, 1927, voted to bar any conflicting financial interest between rival clubs (New York Times, December 16, 1927, p. 15) (Major League Rule 20 and Major-Minor League Rule 20, in appendix of hearings at pp. 1145 and 1173.)

THE GROWTH OF THE FARM SYSTEM

The principal controversy throughout Landis' 24-year administration was the extent to which a major-league club should be able to control minor-league players. Landis, supported by the presidents of the American League until 1931 and by a minority of the club owners, believed that a completely free market was necessary to insure first, that players advanced in their profession at a rate commensurate with their ability and second, that all clubs had an equal opportunity to recruit their teams. A majority of the major-league club owners, led by Branch Rickey, general manager of the St. Louis Cardinals, believed that the control of minor-league players for future use was justified if the poorer major-league clubs were to compete with their more wealthy competitors.

⁶⁹ Hearings, pp. 1049-1059.

This controversy was complicated by the fact that until 1931 five of the higher minor leagues were exempt from the draft. This meant that the only way for the major leagues to acquire players from these circuits was by purchase. While the richer major-league clubs were able to purchase player replacements, the poorer clubs could not. They sought alternative means of securing players—the farm system.

A graphic description of the economic reasons for the St. Louis Cardinals farm system was given in the testimony of Branch Rickey:

Mr. KEATING. Mr. Rickey, you are known as the father of the farm system. Suppose you tell us the other side, what you deem to be the advantages of the farm system. How does it help the players, the fans, and the owners?

Mr. RICKEY. The farm system was not a sudden stroke of somebody's originality or independent thinking. The farm-system inception was occasioned by necessity.

I was a comparatively young fellow, now, at the time of the inception of the farm system in St. Louis, in a day when it was customary for three or four clubs to divide the honors of pennant winning from year to year. Those clubs were regarded as wealthy clubs, as distinct from, let us say, three or four poorer clubs, at least in general opinion in that day. Some of those poorer clubs, one notably the St. Louis Club, were at the bottom, almost always to be found anchored in the second division * * *. They were the door mat for the successful clubs, economically and artistically on the field, to step upon to enter into high-favored competition.

In order to stay solvent, those clubs were compelled in those days, as some have been compelled more recently, to sell their players wherever they could for the most money in order to pay administrative salaries and players' salaries and keep their franchises and operate. It was felt at that time that these so-called richer clubs were somewhat sympathetic with the annual position of these poorer clubs and sympathetic with their need of funds, conscious, of course, that they needed an eighth club to complete the circuit in the league, and you were able, perhaps, to get without too much negotiating a satisfactory price for your players; and the result is, and the record and history will show, that during those years, and again by a practice more recently where you find some clubs in a similar position, they have to sell their good players to continue solvent, and they forfeit their artistic work; they forfeit a good team standing, and stay perennially in the second division.

Now, it is not a joy continuously to experience the emotions of defeat. I did not like it. But there was nothing I could do about it. We had a park for which we had paid \$175,000, by selling stock in a new corporation to the citizenship of St. Louis. We owed \$175,000. And we finished in last place in 1918. And I said to myself, "What can I do about it? I have no money. We owe \$175,000. We have a reserve list of 23 players," only three of whom were with the club 2 years later, for they did not rate. Clubs usually finish last on merit, because they do not have enough good players.

I had coaching friends, coaches of college teams, and they would tell me about players, and they were not ready for the major league, but they were prospectively able to become members of a major-league club. And for a pittance—I forget the price—* * * I bought a half-interest in a little Class D club in Arkansas.

Mr. GOLDSTEIN. That was Fort Smith, sir?

Mr. RICKEY. That is the town. And then I bought 18 percent of * * * the Houston club in the Texas League. * * * Then I bought about the same time—this would be, I would say, in about 1919 or 1920, thereabouts—50 percent of the Syracuse Club in the International League. * * * It was 5 or 6 years later, though, that we moved from Syracuse to Rochester. Rochester at that time was a city without a franchise. It had no baseball. * * *

Mr. CHAIRMAN. Where did you get the money to buy these clubs?

Mr. RICKEY. It was not very much, Mr. Chairman, not very much. I was on all the notes that the banks would take in the city of St. Louis, I and 20 other directors, which is too many. We borrowed all we could. But the secret of this thing is, the whole basic secret of it—may I parenthetically remark, now—is that the farm system is the only vehicle that a poor club has available to it to use to mount into respectability, competitively.

Mr. GOLDSTEIN. Now Rochester and Houston are still in the Cardinal chain?

Mr. RICKEY. So-called.

Mr. GOLDSTEIN. And when did Columbus come into the picture?

Mr. ROGERS. 1492.

Mr. RICKEY. * * * I would say 1928, 1929.

Mr. GOLDSTEIN. Sacramento became a member of the chain or farm or group or organization?

Mr. RICKEY. Yes.

Mr. GOLDSTEIN. About how many clubs, minor-league clubs, did the Cardinals own or control when the farm system was at its peak?

Mr. RICKEY. Own or have working agreement with, at its peak, I would say 27 or 28 clubs.

Mr. GOLDSTEIN. And that meant a control of approximately how many players?

Mr. RICKEY. * * * They would number, say, 600.²⁷

Branch Rickey's explanation as to the origin of the farm system was substantially supported by Mr. Leslie M. O'Connor, secretary-treasurer to the late Judge Landis and himself an opponent of the farm system:

* * * * *
In justice to Mr. Rickey, I want to bring out this: Mr. Rickey always took the position that he got into this farm system because he, as representing a club of small population—St. Louis as compared with New York, for example, without the tremendous receipts that other clubs had—was not in position to go out and buy players the way they could; and, consequently, he was obliged to devise a scheme whereby he could develop players.

And, secondly, another justification for his program was this: that at the time he originated it there were five leagues, including the three largest minor leagues, who were not subject to draft and who theoretically could hold on to their players forever.

* * * * *
The fact of the matter was that this exemption from draft enables these non-draft leagues to exact higher prices for the players transferred. It was more of an economy proposition. The St. Louis Club felt that it could not pay the high prices that the higher minors wanted for their players, and that they had to go out and develop players themselves. That is the origin of the farm system and the basis for Mr. Rickey's going into it. I think that they were both justifiable reasons, but I also think he went far beyond that later on.²⁸

Judge Landis, early in his administration, demonstrated that he would follow the lead of the old National Commission against farming. In his first year he served the owners notice that he would not let them make a mockery of the rules to control more players than they needed. During the 1921 season, four players were secured by major-league clubs and sent to the minors without securing waivers from other clubs and without using option agreements, the only recognized and carefully restricted exception to the no-farming rule. The players were sent with the understanding that they would be returned to the major-league clubs at the close of the playing season. Judge Landis discovered these "gentlemen's agreements," declared the players free to sign wherever they pleased, and bitterly chastised the clubs involved. His decision held:

These men should be included in the [player] limit of the respective major-league clubs all the time they are with the minor-league clubs, as the major-league clubs retain "control" of them through the minor league clubs' unofficial, unrecorded, and unpromulgated agreement to return them. The arrangements, under which the minor-league clubs receive and agree to return these men are in effect optional agreements; but, there being no record that they are such, or that the major-league clubs have any control whatsoever over these players, they do not count in the player limit. * * * The arrangement creates a situation which nullifies the

²⁷Hearings, pp. 987-1008.

²⁸Hearings, p. 689.

player limit, for it such transactions are countenanced there is nothing except a club's financial resources to limit the number of players whom it may control.

* * * The placing of a player with a minor-league club for but one season can be accomplished only by means of an optional assignment. (In re Players Roseberry, Manouk, Fisher, and Manush, October 31, 1921).²⁹

Major league club owners followed the letter, if not the spirit of the player limit rules in the major league agreement, by switching from gentlemen's agreements to Rickey's system. By owning minor league clubs, they were able to control more players just as effectively as if they loaned players to independent clubs. Technically, however, players on farm clubs had no strings attached and were exempt from the major league club's 40-player limit.

The national commission had declared that the ownership of minor league clubs was in violation of the no-farming rule. Landis, however, was persuaded to do nothing. His reasons were described to the subcommittee by Leslie O'Connor as follows:

Now, when this situation came up, Judge Landis and I were concerned about it, and Judge Landis consulted the two oldest men in baseball, the most experienced and very sensible, intelligent men, Barney Dreyfuss, of the Pittsburgh Club, and Frank Navin, of the Detroit Club. And both of those gentlemen assured him that he need have no worries about it because it was financially destructive to a club to undertake to operate minor league clubs, and that the thing would fall of its own weight.

* * * * *
Judge Landis was at all times opposed to the farm system, not only because he had objections to ownerships if they were owned as separate entities, but he figured they were operated to evade or avoid rules and were detrimental to the ballplayers and to the communities in which they operated. Consequently, he was always against it.

He was dissuaded from taking any action originally by the advice given him by Dreyfuss and Navin, which turned out to be inaccurate.³⁰

The St. Louis Cardinals soon demonstrated the lucrative possibilities of the farm system. Under the genius of Rickey, they acquired players inexpensively from other minor league clubs or as free agents and, when ready, graduated them to the major leagues. The first National League championship came in 1926. In the succeeding 20 years, the Cardinals won eight more pennants and finished second on six other occasions.

The St. Louis system was so successful in engrossing the player market that it could afford to sell surplus talent to other major league clubs. Although the paid attendance at Cardinal games, 1925-50, ranked far behind that of the Dodgers, Cubs, or Giants, the club's profits, due largely to the sale of player contracts, more than doubled that of any other club in the National League. Rickey testified to the subcommittee that at one time there were 65 players in the major leagues—almost one-sixth of the total supply—who had former identification with the St. Louis Cardinal organization.

Landis felt that the farm system was an abuse of the reserve rule, in that it left the advancement of players to the whim of a single club instead of to a free market or the player draft. His attempts to have the club owners themselves vote to outlaw the farm system are described by J. G. Taylor Spink, publisher of the Sporting News:

Landis brought up the subject of big league clubs operating minor league farms at the 1927 meeting, and again let the club owners know, in rather concise lan-

²⁹Hearings, exhibit 43a, pp. 650-662.

³⁰Hearings, pp. 643 and 658.

guage, that he didn't favor the practice; in fact, he was very much "agin it." Some of the minor league club owners also were restless about it, and were threatening not to renew their agreement with Landis and the majors when the major-league agreement expired in January 1928, at the end of the judge's first 7 years in office. [The American Association amended its constitution, December 5, 1927, to bar major league clubs from owning clubs in its circuit. *New York Times*, December 6, 1927, p. 32.] * * *

Near the close of the meeting, Landis said: "I will have Secretary O'Connor call the roll, and I want each club president to tell me how many minor league clubs he owns, and if he doesn't own any, then I want to know how many he is interested in."

After Landis held his poll, he learned that National League clubs had 12 farms, and those of the American League only 6, a surprisingly few compared with later years when the St. Louis Cardinals at one time controlled 33 minor league clubs and some 600 players.

* * * * *

The minors did not go on their own, as they frequently have threatened to do, but a year later at a joint meeting of the majors in Chicago, December 13, 1928, the judge swung back to his new pet aversion, the 10 so-called "baseball chain gang." He called it one of the new dangers with which baseball was confronted. (Spink, *Judge Landis*, and *25 Years of Baseball*, p. 191.)

President Ban Johnson of the American League, a former member of the national commission, shared Landis' views. Shortly before his death in 1931, he was quoted as saying:

Farms or chain stores are not desirable from either a major or minor league standpoint. In my time we never permitted them. The National Agreement (of 1903) for the government of professional baseball was specific on this point.

Branch Rickey is the only one who made a success of it, but aside from whether it is profitable or costly to the majors, it is a decided detriment to minor league baseball and should not be tolerated. The majors under this system send men down to the minors with major league salaries to force on the clubs in the same leagues increased expenses that they cannot afford to carry, but which they must incur in order to keep step with the teams loaded up with players under the farming system. It is all wrong and probably is more responsible than any other factor in creating the financial troubles under which most of the smaller leagues are struggling. (*Sporting News*, January 8, 1931, quoted at hearings, p. 1009. E. S. Barnard, who succeeded Johnson as president of the American League in 1927 and served in that office until his death in 1931, also is reported to have opposed the farm system. *New York Times*, December 13, 1929, p. 32.)

Unsuccessful in his bid to have the farm system outlawed, Landis fought a rear-guard action against the alleged evil throughout his administration. If he could not make the rules, at least he was vested with authority to construe them. Accordingly, when the St. Louis Cardinals attempted to transfer catcher Gus Mancuso "outright" to its Rochester farm after two prior optional assignments, Landis refused to approve the transfer agreement. He held that since St. Louis at all times controlled Rochester, the transfer in essence was a third optional assignment, in violation of the rules:

The transfer agreement now under consideration is in form "outright" and would be approved as a matter of course but for one insuperable objection, namely, the common ownership of the transferer St. Louis Club, and the transferee Rochester Club. An outright transfer, as is understood throughout baseball, effects a complete dissociation of the transferor club from the player and a total cessation of control by the transferor over him or his services. And this is not a technical matter. It is fundamental to the rights and obligations of the parties. It follows, therefore, that Rochester, being owned by St. Louis and subject to its control, the proposed agreement must be disapproved. (In re player Gus Mancuso, February 15, 1930.²¹)

A similar decision regarding the St. Louis Browns and Fred Bennett precipitated a court test of the commissioner's authority to disregard

the corporate entity fiction. The St. Louis Browns, who had retained an outfielder named Fred Bennett on optional assignment for the 2 years prescribed by the rules, sought to assign him to Milwaukee in the American Association, an affiliated club. When Landis refused to approve the assignment, Phil Ball, common owner of the Browns and Milwaukee, defied the commissioner and sent Bennett to Milwaukee. Landis declared the player a free agent, and Ball went in the Federal district court in Chicago to restrain the commissioner from interfering.

Judge Walter Lindley in a 5,000-word decision upheld Landis' authority to declare Bennett a free agent and dismissed the bill, April 25, 1931:

The various agreements and rules, constituting a complete code for, or charter and bylaws of, organized baseball in America, disclose a clear intent upon the part of the parties to endow the commissioner with all the attributes of a benevolent but absolute despot and all the disciplinary powers of the proverbial pater familias * * *

It is apparent that Ball, by controlling the St. Louis, Wichita Falls, Tulsa, and Milwaukee Clubs, and, in addition Springfield, Mo., is and has at all times since April 5, 1928, been able at his own discretion to direct the transfer of Bennett at any time from any one of these clubs to any other of them without asking for waivers from Major League clubs. Though there is nothing in the rules to prohibit an individual owning control of a Major League club from likewise owning control of Minor League clubs, the intent of the code is such that common ownership is not so to be made use of as to give one individual, controlling, all of the clubs mentioned, the absolute right, independent of other clubs, to control indefinitely a player acquired and switched about by apparent outright purchases * * *

The code does not forbid Mr. Ball controlling any number of Minor Clubs, but so to manipulate that control as to transfer and retransfer a player under the form of outright sales and purchases, but at all times to retain secret, absolute control and to have at all times the power to switch the player at the whim of one man, irrespective of the player's rights, is to produce a situation where there is no opportunity for other Major clubs to bid for the player, a condition plainly detrimental to baseball. Such situation is inimicable to the best interests of players and competing clubs and directly in the face of the clear intent of the code. Therefore it cannot be said that this commissioner, when he refused to approve the option contract submitted to him and ruled that Bennett was freed from his obligations to St. Louis, endowed as he was, did anything other than enter an order clearly within his discretion, unaffected by any illegal, invalidating element. To have decided otherwise would have exhibited a lack of fidelity to the trust imposed upon him and to the obligations which he had accepted.²²

Ball appealed to the Circuit Court of Appeals, but when Landis threatened to resign if Ball persisted in challenging his authority, he was constrained to withdraw his appeal. Thereafter, Ball turned his energies toward campaigning for a relaxation of the major league rules to permit freer manipulation of players on minor league farms.

The depression brought final victory to the farm bloc. The first step was a compromise with the draft-proof minor leagues; the second was the unrestricted working agreement; and the final step was an emasculating of the commissioner's authority to strike down transfers between farm clubs of the same system.

In order to induce the five draft-proof leagues to submit to the draft, the majors offered to limit the draft to players in the higher minors with 4 years' experience and in no case to draft more than one player from each club. They also agreed to sign no rookie players except those coming from colleges. In exchange, they claimed the right to option 15 players instead of eight and to extend the number

²¹ *Milwaukee American Association and St. Louis American League Baseball Company v. K. M. Landis and Fred Bennett* (49 F. 2d 288 (1930)).

of times any one player could be optioned from two to three (New York Times, December 12, 1930, p. 31; January 21, 1931, p. 27).

Since the farm operators were on both sides of the fence—major and minor—they profited from the concessions from both parties. They could control players for at least 4 years free from the draft and three more on option free from the waiver rule—a minimum of 7 years—without such players ever participating in a major league game.

Furthermore, the limitation on signing free agents did not affect the farm operators. This is described by Leslie M. O'Connor as follows:

Another instance was the agreement that the major leagues made with the minors as a consideration for their all coming under the draft, which was that the majors, among free agents who had no previous professional experience, would sign only college players.

Well, it was a perfect cinch for a major league club that owned farms to violate that rule, because they had their minor league club sign the ballplayer. And the result was that in the course of 2 or 3 years, the minor leagues finally recognized that fact and consented to taking out that rule, which was entirely false, because nobody was observing it.¹³

A year later, at the December 1931 meetings, the major leagues voted to permit unlimited working agreements with minor league clubs, ostensibly to tide them over the depression years. The purpose and effect of this rule are described by Mr. O'Connor in the following version of the development of the farm system:

It arose insidiously, in that I am quite certain that there were several clubs that had minor league ownerships before they ultimately came out and acknowledged them publicly. It grew slowly during the 1920's. At that time they involved entirely ownership, complete ownerships or partial ownerships, enough to give control. When the depression came along, following that 1929 debacle in the stock market and the consequent business depression, minor league clubs folded up at an alarming rate, the same as other businesses, and the major league clubs, particularly the outstanding proponent of farm systems, came up with a proposition that during the emergency, in consideration of financial aid being given to lower clubs, the players on whom options were obtained in those minor league clubs should not count in the player limits. Prior to that time, Judge Landis, if a club made a working agreement with a lower club which gave the higher club the right to select, we will say, two ball players, would hold that those ball players would be charged to the club's 40-player limit.

The consequence of that was that they could not have very many of those agreements. They could have one or two in order to fit them in under their player limit, but they could not have many. And this new rule opened the way to working agreements.

At that time, which was along about 1931 or 1932, there were about 12 minor league clubs left. Now, you will never get any league president to express an opinion against the farm ownerships, because farm ownerships greatly facilitate the task of a minor league president. If he has eight clubs in his league that are owned completely by major league clubs, he has no worries, and consequently all league presidents are in favor of farm ownerships.

Now, when you come to farm agreements, there is a somewhat different picture. This so-called aid to the minor league clubs was extremely trivial. In my opinion, it did not amount even to the amounts that the minor league clubs had previously gotten through the sale of ballplayers' contracts, and through the extra payments received under optional assignments. An optional assignment by a major league club to a minor league club involved a profit of \$400 per player to the minor league club. Those things were all wiped out. They had a working agreement which gave them entire control of 30 players and involved no necessity for paying the \$400 profit for each player.

The considerations stated in these working agreements were so low that in many cases Judge Landis had to step in and say, "I will refuse to approve your taking

¹³ Hearings, p. 650.

any player from this club unless you pay at least \$100 per player," which was so insignificant that it was pitiful.

The result was that the major leagues were able to get complete control of the minor league situation when the depression lifted. They were in the saddle.¹⁴

Branch Rickey, proponent of the unlimited working agreements, presented a sharply contrasting view on its effect on the minor leagues:

The CHAIRMAN. * * * Let us have your views on that. I am very anxious to get them.

Mr. RICKEY. There were only eight leagues. I stood up in a public address in Montreal, I think it was, in 1930 or 1931, or some such year, and I called the roll of the minor league clubs who were not even able to send a representative to the meeting in Montreal, and they were not sure that they were going to play again the following season, and it was not important enough to come to annual convention * * *

Mr. KEATING. Just a minute. I want to pursue that. In other words, Mr. Rickey, in your judgment, were it not for the farm system, fans in many cities throughout this country would today be denied the opportunity of watching organized ball games?

Mr. RICKEY. I make the sweeping statement, and will undertake to support it with facts, and in the review of Mr. O'Connor's testimony, I will undertake to rivet his testimony—I will rivet, I hope, and I believe—the proposition that the farm system was the savior of baseball, and without it today, it is a problematical question whether you would have minor league baseball in the smaller minors at all.

* * * * *
Mr. GOLDSTEIN. * * * Would it be correct to state that the number of clubs in the minor leagues followed our pattern of depression and war and increasing population?

Mr. RICKEY. To a notable extent, yes.

* * * * *
Mr. GOLDSTEIN. Now, in talking about saving the minor leagues I take it you would not agree with the statement that Mr. Giles is quoted as making, on October 17 * * * of this year, to the effect that night baseball saved the minor leagues.

Mr. RICKEY. Oh, night baseball was a contributor, too.

Mr. GOLDSTEIN. So it was not only the farm system that saved the minors?
Mr. RICKEY. There is doubtless some truth that night baseball did help. That is an imponderable, however.

Mr. GOLDSTEIN. Would not the farm system be an imponderable?

Mr. RICKEY. It is like saying that I would be happier if I had married another woman. You could not prove that had there been no night baseball there would not have been any minor leagues.

Mr. GOLDSTEIN. How do you imply that the farm system saved the minors?

Mr. RICKEY. Because of the obvious reasons from the record. In 1931 you had a limited number of clubs, and answering to the roll call, there were very many who were not present at the meeting, even * * *. Only 11 leagues were represented, and of these 3 stated that they would positively operate the following season.

* * * * *
The CHAIRMAN. What makes you think that the number of minor leagues would not have grown from 28 in 1926 to 49 in 1950 without the farm system?

Mr. RICKEY. * * * With all that has been said about our desire to get players, and a thing that is not true, that the primary purpose was the avoidance of the rule, nevertheless, there has been in this picture continuously assistance to the minor leagues by the majors. Time and time again I have taken a club upon the urging of the president of the National Association * * * as he would state his great doubt about this or that league being able to continue for the following season and he would solicit my help in getting other major league clubs to help, as he solicited them to have me help. * * *

Mr. GOLDSTEIN. You took over whole leagues on the basis of working agreements, did you not?

Mr. RICKEY. It was legal to do it and the president of the league, if you are referring to the Nebraska State League, * * * had all of his clubs, six of them, give him the right to dispose of their players at the end of the year. They

¹⁴ Hearings, p. 642.

were undertaking to negotiate some kind of helpful sponsorship that would enable them to play a season in Nebraska. They were small clubs. * * * The president of the league, for example, states, "Whatever players we have, we will make arrangements with you whereby you will pay to the league \$1,500 a club," which was considerable money in that day, or \$2,000, or what have you. I do not recall. But it was not very much.

"And at the end of the season, you can take your pick of our players, having paid these amounts in advance, because we will be able to furnish our communities with baseball on this basis."

* * *
Mr. KEATING. It gave a sort of option on the players, as I understand it.

Mr. RICKEY. I had an option to purchase from the president of the league any or all players in his league that year.

Mr. STEVENS. But that would not be permitted under present rules, would it, Mr. Rickey?

Mr. RICKEY. I do not know. Do you?

Mr. STEVENS. As I understand them you cannot have a working agreement with more than one club in a league, under present rules.

Mr. RICKEY. That is right. But I did not have a working agreement with any one club. I had a working agreement with the president, and it was perfectly legal under the rules, and it enabled them to have baseball for a year, and I got a fellow named Hopp out of it, and some other fellow who was less prominent. * * *

Mr. STEVENS. But, Mr. Rickey, earlier you stated that the fact that you could have in your farm system only one club from each league would limit the size to which any one farm system could grow. Now, if you could make working agreements with entire leagues all through the minor leagues, you would remove that limitation, would you not?

Mr. RICKEY. I do not think it is desirable to have control of a league. It would only be excusable on the grounds of being able to have that league endure at small cost to you with the hope that you might be able to get a Hopp out of it.

* * *
The CHAIRMAN. Would it not have been better for all the clubs in the American and National League to have come to the help of that particular State league?

Mr. RICKEY. Wonderful and very desirable, and much preferable. But you could not get one of them to do it.⁶⁵

O'Connor was emphatic in claiming that these depression working agreements did not save minor league baseball:

Well, the proposition has been advanced that the farm system saved minor league baseball. I differ very much with that. I don't think it saved minor league baseball at all.

The farm system had been operating for at least 5 or 6 years before the depression of 1929 to 1934 or so came along. I don't know how many leagues there were, but certainly there were 30 or 40 leagues. When the depression came the farm system did not save minor league baseball. There were perhaps 8 or 10 minor leagues in that period along about 1931-32, and major leagues got the benefit of that depression to establish themselves in the farm ownership business by ostensibly agreeing to help minor league clubs in a financial way.

They helped the minor league clubs very substantially in a financial way when they assumed the obligations of ownership. If they go into a league and buy a club there and operate it, they assume the responsibilities and the burdens and are entitled to whatever benefits there may be, and they do support minor league baseball when they own clubs. However, that is an expensive and worrisome and burdensome thing, and consequently the more modern method, the favorite method, is to accomplish it by a working agreement.

Under such a working agreement with a lower club they agree that for the sum of \$1,000 a class D club will convey to the major-league club or the higher club the right to take any or all of their players at the end of the season. That sum of money is very much less than that same minor-league club would have gotten in the old days through the sale of ballplayers and through the taking of optional players, with a consequent profit on the recall of the players.

Therefore, I do not think that the so-called financial assistance to lower-classification clubs was ever an actual fact. Some of the considerations were so miser-

⁶⁵ Hearings, pp. 991-995.

able that Judge Landis was forced to * * * rule that he would not approve the acquisition of any player under a working agreement that involved a consideration of less than a hundred dollars per player taken to the lower-classification club.⁶⁶

A middle view was taken on this question by Larry S. MacPhail, who was himself a successful "farmer" when he served as business manager for the Cincinnati Reds, Brooklyn Dodgers, and New York Yankees, 1934 to 1947:

Mr. MACPHAIL. Over a period of years Mr. Rickey made considerable money for clubs with which he was connected and for Mr. Rickey, personally, by selling ballplayers who were developed in his system. His system was always six times as big as necessary to produce ballplayers for his own club. Mr. Rickey had a very profitable traffic in ballplayers' contracts, and I don't think that saved baseball at all.

On the contrary, I think it is one of the weaknesses of the present set-up.

If you want to work for equality of competition and give clubs like the Cincinnati Reds and the St. Louis Browns a chance once in a while to be up there and once in a while to win, just restrict that thing Mr. Rickey was talking about and you are going a long way toward establishing equality of competition within the major leagues.

* * *
If you take back in 1931, the number of minor leagues in this country had dwindled to about eight, and it is my recollection that there were only five minor leagues at that time which were in a position to open the following season.

Lights had a whole lot to do with the rebirth of the minor leagues.

Mr. STEVENS. You mean night baseball?

Mr. MACPHAIL. Night baseball; yes, sir. But also the establishment of these large farm systems by the major leagues had a lot to do with it because it put new capital and new money in the minor leagues. Of course, the major leagues have been operating clubs in the minor leagues to develop players and not for profit.⁶⁷

The rule which lowered the bars for these working agreements was adopted in December 1931, and read as follows:

When a club, in consideration of aiding financially a minor-league club of class B, C, or D, has been given an option to acquire the contract of a player or players of such club, such players shall not be counted in the player limit of the major-league club unless and until such player contract or contracts shall be purchased. (In re Cedar Rapids-St. Louis National League Club Relations, March 22, 1933).⁶⁸

Originally effective for 2 years, this rule was subsequently extended indefinitely. Although it never found its way into the various agreements of organized baseball, this rule apparently still defines the extent to which major-league clubs may enter working agreements in avoidance of the official player limits.

The final victory for the "farm bloc" came at the joint major-league meeting in New York, December 15, 1932, when the owners adopted the following resolution:

All assignments, whether optional or otherwise, of players' contracts and all agreements and/or transactions involving players' contracts mentioned in or provided for by the Major League Agreement and major-league rules shall be given and shall have, the same force and effect for all and every purpose notwithstanding the stock ownership or control either directly or indirectly by any one club or by a stockholder or stockholders of any one club in or of one or more other clubs (New York Times, December 16, 1932, p. 26).

This resolution was intended to bring to a final halt the commissioner's disregard for the corporate entity fiction, which had been the basis for his decision in the Bennett case (supra). Landis' position, as described in the appellees' brief in *Milwaukee v. Landis*

⁶⁶ Hearings, p. 695.

⁶⁷ Hearings, pp. 1073-1077.

⁶⁸ Exhibit 43, hearings, p. 673.

(C. C. A. 7, October term, 1930, No. 4586; appeal withdrawn) had been—

Like Congress in the commodities clause legislation, [Landis] is not opposed to common ownership, but to dominance and its concomitant puppet subjection and control resulting in dealings within the system which nullify obligations to players and other clubs under the Major and Major-Minor League Agreements and Rules, and under players' contracts, which deprive players of their rights, and which make a mockery of rules established for their protection and benefit. Unfortunately, these very dealings and this dominance frequently are the underlying purpose of such common ownership and control; without them, it is sometimes claimed, as by Ball here, that there is usually no incentive for the common ownership; and with them, the players are helplessly enmeshed in the coils of the system if the rules protecting the extraordinary rights of assignment of their contracts can be evaded by corporate forms and by fictitious documents ostensibly between parties dealing at arm's length, but which in fact are dictated by a central control and might as well be signed by the same person as the representative, which he actually is, of both parties—or rather of the only party to the transaction (Appellees' brief, *Milwaukee v. Landis*, p. 71).

After these rule changes during the depression years Landis used only one weapon to fight the farm system—the rule against interlocking financial interest within the same league (Major-Minor League Rule 20, p. 75). On March 22, 1938, he construed St. Louis Cardinal working agreements with more than one club in the same league or with an entire league contrary to this rule and declared 91 Cardinal farm hands "covered up" by this arrangement free agents (In re Cedar Rapids-St. Louis National League Club Relations.)² Two years later, he descended on similar irregularities, this time by the Detroit Tigers, and declared almost 100 players free agents (In re Detroit Club "Working Agreements," January 13, 1940.)³ In the latter decision he also issued the following warning:

Notice hereby is given all clubs, club officials, and employees that the evils of common control of player dealings of two clubs in the same league, and perversion of "working agreements" into arrangements for the wholesale "covering up" of players, must cease; and that all club officials and employees found to be involved in any such misconduct after this date will be placed on the ineligible list, maximum fines will be imposed upon each club concerned, and all players mishandled therein will be declared free agents.

Until the depression, the St. Louis Cardinals had the only extensive farm system. Other clubs, witnessing the success of the Cardinal system, one by one began to copy Rickey's methods. Ruppert of the Yankees purchased Newark in the International League and commenced an elaborate farm system under the direction of George Weiss, who today is general manager of the Yankees (Barrow, *My 25 Years in Baseball*, p. 179). The unbeatable combination of wealth and the farm system brought the Yankees seven pennants in 8 years, 1936 to 1943, and four more pennants in postwar years. MacPhail at Cincinnati also got a head start on the farm system and rebuilt the club into a financially strong enterprise. Even major-league club owners who opposed the farm system were forced to go along if they were to keep step with their competitors.

One of the strongest opponents to the farm system was the Chicago National League Club, until the forties one of the powers of the National League. Mr. Philip K. Wrigley, president of the Chicago club since 1934, described to the subcommittee why the Cubs were forced to abandon their position:

² Exhibit 43-J, hearings p. 673.

³ Exhibit 43-L, hearings, p. 681.

Mr. STEVENS. * * * Do you favor or oppose farm systems?

Mr. WRIGLEY. I have always opposed the farm system. * * * that probably sounds like sour grapes, because the sad plight of the Cubs at the present time is probably due 100 percent to the fact that we resisted the farm system so long that we dropped way behind in the competitive field.

The CHAIRMAN. In other words, you had to follow the procession and indulge in the purchase of farms, because you could not otherwise compete; is that correct?

Mr. WRIGLEY. We have to.

Mr. KEATING. Then the farm system does develop better ballplayers?

Mr. WRIGLEY. I think that is questionable.

Mr. KEATING. I should think that that would follow from your statement; that in order to compete with those clubs that had the farms, you found that you had to go into farms.

Mr. WRIGLEY. That is a little involved. All I can say is that we started our farm system and got serious about it just before the war started, World War II. We have been a tail-end club now for the last 3, 4, or 5 years. If just having a farm system developed better players, we would not be where we are in the standings.

Mr. KEATING. You do not attribute, then, your standing to the fact that you did not go into the farm system?

Mr. WRIGLEY. If you want players today, you practically have to raise them.

Mr. KEATING. That is done on farms, is it?

Mr. STEVENS. That is, if everyone else has farms, you feel that you have to have a farm system?

Mr. WRIGLEY. That is right.

The CHAIRMAN. I think that you have heard, or know of, the testimony that Mr. Leslie O'Connor gave yesterday to the effect that baseball now is a competition between 16 huge farm systems.

Mr. WRIGLEY. Yes.

Mr. GOLDSTEIN. In other words, your view is that farms, as a defensive measure merely provide a supply of players, but do not necessarily guarantee that they are going to be the best players?

Mr. WRIGLEY. That is expressed very well.

Mr. STEVENS. If everybody else has farms and you do not, you might not even be able to have a supply of players?

Mr. WRIGLEY. That is right.

Mr. "Red" Smith, sports columnist for the New York Herald Tribune, brought out the fact that Mr. Wrigley was not alone in his thinking:

Mr. SMITH. * * * Connie Mack [manager of the Philadelphia Athletics, 1901-51] told me several times, rather wistfully, that he thought Judge Landis would have liked to see a return to the situation of years ago when major league clubs had a limited number, perhaps 25, active players and 15 on the reserve list and were allowed title only to that number of players and no others. All other players in America were in the open market.

Mr. STEVENS. Do you think that he would favor such a thing?

Mr. SMITH. Connie spoke rather wistfully of those days when he could go out and buy a Rube Waddell or a fellow of that class and build a ball club fast, when minor-league players were not owned by competing major-league clubs. The supply was to a much larger degree on the open market. He spoke, as I say, rather wistfully of those days, and said that he also had the idea that that was Judge Landis' idea. And you can see how if that situation existed a club in eighth place with a little bit of money might very well, with initiative and enterprise, go out with better scouts than the other fellow and buy on the open market enough players to be a winner next year. * * *

Proponents of the farm system bitterly criticized Commissioner Landis for his opposition to what they considered economic necessity. Invariably, they asked, "If you don't like the farm system, why don't you devise something better?"

¹ Hearings, pp. 742-743.

² Hearings, p. 835.

How the commissioner's office accepted this challenge was described in the testimony of Leslie O'Connor.

Well, it was constantly thrown back to Judge Landis and myself; "if you don't like the farm system, why don't you come up with something that will meet the necessities that we are under?" And I always maintained that that was really not our job. It was their own job.

But the pressure got so great that I finally devoted a considerable period of time to study of the problem, and I came up with this document that you hand me, * * *. That was sent to the ball clubs by the commissioner on January 25, 1940, with a transmittal letter which is short, and I will read it if you don't mind. * * *

"To All Major and Minor League Clubs:

"The enclosed proposal submits a plan for major and minor-league cooperation in the development and advancement of players, for establishing as to players' acquisition freedom of competition and equality of opportunity for all clubs, and for assistance to minor leagues. It is the result of long observation and study of these problems and seeks to safeguard and advance the legitimate rights and interests of the clubs, leagues, players, and the public in baseball's operation.

"Please give it careful and thorough consideration and let me have your views and suggestions as promptly as may be possible.

"Very truly yours,

"KENESAW M. LANDIS, Commissioner."

* * * * *
It received the support of quite a few minor-league clubs; but as far as the major-league clubs, whose acceptance of it was absolutely essential, the only thing that I have ever heard was the comment by two club owners, one of whom denounced it as anarchistic and the other as socialistic.

* * * * *
This proposal involves nothing at all except the adaptation of practices which have been in effect in baseball for generations on a cooperative basis instead of an individual basis. It does not require the severance of any ownerships of farms, but the severance of such ownership would result from the fact that it would take away all incentive for having farms. * * * nobody would go into farms for the purpose of controlling ballplayers, because this plan would absolutely prohibit their controlling ballplayers.

The fundamental evil in connection with the control of ballplayers, as it has seemed to me in my contact with the game, is that, rightly or wrongly, the clubs feel that they must take care not merely of their present-day needs, but they must cast themselves in the future and safeguard their player supply for the next 5, or 10 years; and, consequently, they feel obliged to control hundreds of ballplayers.

My personal view is that all that is necessary is that there be constantly available a source of players to which any club may go whenever they need players, and this program was devised on that theory.

* * * * *
I was of the opinion that the program of developing ballplayers for higher service and for the baseball organization as a whole could be accomplished with the expenditure of very much less money. I estimated that this plan would save major-league clubs a million dollars a year.⁴ (The plan is reprinted in full, hearings, p. 691-694.)

Under this plan, proposed by the commissioner's office, all players remained on the free and open market, eligible to be promoted by any club of higher classification which could use their services. Minor-league clubs, instead of being subsidized in hit-or-miss fashion through farm systems, received graduated subsidies from a central fund. Receipts for the sale of players in excess of this subsidy went to the selling club. Branch Rickey termed this proposal "fantastic and impractical."⁵ Larry MacPhail testified that he thought the plan would save the majors a lot of money and that its objectives were desirable.⁶

⁴ Hearings, pp. 690-691.

⁵ Hearings, p. 1047.

THE DEPRESSION IN WAR YEARS

The thirties were lean years not only for the minor leagues but also for the majors. From 1931 to 1940, inclusive, not a year elapsed when at least five clubs did not lose money. The following table, prepared from financial data supplied by major-league clubs, shows the number of clubs with profits and losses in each of these years:

	Net profit	Net loss		Net profit	Net loss
1931.....	5	11	1937.....	9	7
1932.....	4	12	1938.....	8	8
1933.....	2	14	1939.....	9	7
1934.....	7	9	1940.....	10	6
1935.....	11	5			
1936.....	10	6	Total.....	78	85

Many clubs sold themselves into the second division or else sought loans from the league in order to stay in operation. Connie Mack, owner of the Philadelphia Athletics, was forced to sell nine of his players to other American League clubs, 1932 to 1935, for \$590,000. His club dropped from first in 1931 to last in 1935 and 1936. Will Harridge and Ford Frick testified to the subcommittee that both the American and the National League had to extend loans to second-division clubs unable to meet their financial obligations. In several instances, notably the Boston Braves, Philadelphia Phillies, and the St. Louis Browns, these loans were written off during corporate reorganization.⁷

Paid attendance during this decade placed in bold relief the anarchistic distribution of major-league franchises among the larger cities. Detroit, with a club which was no more successful than the St. Louis Cardinals, outdrew the Cardinals, 2 to 1. The Yankees outdrew the St. Louis Browns almost 8 to 1. Even the lowly Phillies attracted 75 percent more paying fans than the Browns.

The maldistribution of major-league clubs is perhaps best demonstrated by the following table, which shows the average league standing and the total paid attendance for each of the 16 major-league clubs, from 1931 to 1940.

Club	League	Average standing	10-year attendance	Rank
New York.....	American.....	1.60	8,909,696	1
Chicago.....	National.....	2.55	7,862,922	2
New York.....	do.....	3.05	7,395,882	4
St. Louis.....	do.....	3.30	3,869,695	12
Detroit.....	American.....	3.30	7,303,028	3
Cleveland.....	do.....	3.50	5,312,617	6
Pittsburgh.....	National.....	3.70	2,869,812	11
Washington.....	American.....	4.85	3,907,187	10
Boston.....	do.....	4.85	5,093,265	7
Brooklyn.....	National.....	4.90	4,432,212	5
Chicago.....	American.....	5.45	4,264,150	9
Cincinnati.....	National.....	5.70	4,909,512	8
Philadelphia.....	American.....	5.70	3,791,566	13
Boston.....	National.....	5.80	2,671,579	14
St. Louis.....	American.....	6.89	1,271,579	16
Philadelphia.....	National.....	7.06	2,198,809	15

⁷ Hearings, pp. 113 and 952.