The Role of Unions and Arbitration in Professional Baseball

Ralph Kiner
THE ROLE OF UNIONS AND ARBITRATION IN PROFESSIONAL BASEBALL

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The following essay was adapted from Ralph Kiner’s Keynote Address given at the 1999 New York State Bar Association Labor and Employment Law Section's Annual Meeting held in Cooperstown, New York. Mr. Kiner played for the Pittsburgh Pirates and in 1975 was inducted into the Baseball Hall of Fame. He has also authored a book with Joe Gergen entitled KINER’S CORNER: AT BAT AND ON THE AIR - MY FORTY YEARS IN BASEBALL. In his address, Mr. Kiner spoke, primarily about the relationship between law and baseball. In particular, Mr. Kiner recalled personal events and experiences during his time playing for the Pittsburgh Pirates. These include: his contract negotiations, or lack thereof; the introduction of unions into baseball; pension plans; collective bargaining; and the powerful role that arbitration now plays in professional sports. Mr. Kiner concluded that the question of whether or not unions and arbitration is beneficial to sports is a difficult question, however, it will remain with the game. As stated, the text of the essay originates from Mr. Kiner’s Keynote Address in which he recalls his past experiences in baseball. All commentary, explanation, and references in the footnotes have been added by the editors and staff of the Hofstra Labor & Employment Law Journal.

I. INTRODUCTION

Over the years, there have been many changes made in the baseball industry. Arbitration, for example, has changed the way players are disciplined in sports. In the early stages of baseball history disciplinary is-

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sues were handled very differently. In 1919, for example, there was a scandal in baseball.¹ The White Sox of the American League tried to "throw" the World Series with the Cincinnati Reds.² In fact, they lost to the Reds.³ It was later discovered that the games were actually thrown, and Judge Kenesaw Mountain Landis was hired by the American and National Leagues in 1920 to become the first Commissioner of Major League Baseball ("MLB").⁴ Judge Landis was a former lawyer in Illinois as well as a federal district court judge.⁵ One year after Mr. Landis' appointment, eight players from the White Sox were kicked out of baseball for life.⁶ Although two players did fight unsuccessfully for reinstatement there was no appeal by the players of this disciplinary decision.⁷

What would happen today if a similar situation occurred? It is unlikely that there would be the same result because the players would be able to arbitrate the case.

II. THE UNIONIZATION OF BASEBALL

In 1952, when I was playing for the Pittsburgh Pirates, I led the league with 37 home runs.⁸ That year I received a contract offer from Branch Rickey, the owner of the Pirates, to make $90,000 per year, which was the top salary in the National League. However, Mr. Rickey

¹. See Jason M. Pollack, Note, Take My Arbitrator, Please: Commissioner "Best Interests" Disciplinary Authority in Professional Sports, 67 FORDHAM L. REV. 1645 (1999) ("[i]n an episode popularly known today as the 'Black Sox scandal,' eight Chicago White Sox players fixed the outcome of the 1919 World Series.").
². See id.
³. See id. ("causing the White Sox to lose to the Cincinnati Reds, five games to three").
⁴. See id. at 1646 ("[I]n 1920 the American and National Leagues named Judge Kenesaw Mountain Landis, a federal district court judge from Chicago, as the first commissioner of Major League Baseball . . . ."). Under baseball's governing document, the Major League Agreement, the commissioner was able to "investigate, either upon complaint or upon his own initiative, any act, to the best interests of the national game of baseball [sic] . . . [and] determine, after investigation, what preventative, remedial or punitive action is appropriate . . . ." See Pollack, supra note 1, at 1646 (quoting the Major League Agreement § 2 (a)-(b), at 1 (1921)).
⁵. See id.
⁶. See Pollack, supra note 1, at 1652. quoting Commissioner Landis' decision to give the eight players lifetime suspensions because players that undermine to throw a baseball game "will [n]ever play professional baseball").
called for a twenty-five percent cut in the contract.  

Stan Musial, another baseball player, heard about my contract offer and went to August A. Busch, the owner of the St. Louis Cardinals. He informed Mr. Bush that he was a better player than me and requested a contract providing a salary of $91,000 per year. In response to his request, Mr. Bush gave Mr. Musial $100,000 per year. During this time, there were no agents, no lawyers, nor anyone else involved in contract negotiations. Even your own mother would not be allowed in the meeting to negotiate the contract with you. Contract negotiations dealt strictly with a ballplayer against the general manager (or owner) of a team. Consequently, I ended up signing the $90,000 contract with the twenty-five percent cut by Branch Rickey.

Branch Rickey’s bargaining tactics were actually one of the reasons that led baseball players to unionize in order to gain representation in the contract negotiation process. During the 1950s, a player signed a baseball contract for life. Moreover, if a player’s team wanted to send him to another ball club, the player was forced to go or not play baseball at all.

The introduction of the union into baseball initially began in 1946 when the Pasquel brothers, both from Mexico, tried to organize a league in Mexico and recruit players from the United States to play in that league. Many Americans joined the Pasquels in Mexico, but the league ultimately failed. When the American players returned to the States, they were unable to resume their baseball careers for quite some time.
In 1946, there was also an attorney from Boston named Robert Murphy who formed the American Baseball Guild. He used the Pittsburgh Pirates as the team to organize. Mr. Murphy chose Pittsburgh because it was a highly unionized city. During mid-season of that year, while trying to organize the players, the Pirates had a meeting and voted as to whether the team should strike. We did not strike because we did not have a two-thirds majority vote which would allow us to strike. However, Mr. Murphy was able to succeed in establishing the pension plan in 1946.

Then, in 1952, I was the player representative of the National League and Allie Reynolds was the player representative of the American League. We hired an attorney by the name of J. Norman Lewis to advise us on the upcoming pension plan negotiations. All three of us went to meetings with the owners of the baseball teams to negotiate the terms of the baseball player contracts. In my belief this was really the start of the overall union plan.

Furthermore, in 1952, when the contract term was over, we tried to get the pension plans increased because there was an abundance of money being generated from the television market. With high hopes of trying to get some of that money, Mr. Reynolds, Mr. Lewis and I went into a meeting with the Executive Council of the Major Leagues. When we walked into the meeting with our attorney, we were immediately asked, “What are you doing with this fellow in here? What’s he?” I said, “He represents us. He’s our attorney.” The Council responded with, “No way. He cannot attend the meeting. That’s the way it is and that’s the way it’s going to be.” We decided to walk out of that meeting and had a big impasse for quite some time.

We all met again when the Council appointed two people, Hank
Greenberg and John Galbreath, to represent the owners. We were all finally able to reach a compromise. We asked for sixty-six and two-thirds percent of the new television money. That figure was based on the fact that the ballplayers for the World Series received sixty-six and two-thirds percent of the radio rights. Unfortunately, we did not get the sixty-six and two-thirds, but we did get sixty percent, which represented the start of a great pension plan for all baseball players.

III. THE AVAILABILITY OF ARBITRATION IN BASEBALL

The use of arbitration to settle disciplinary matters in baseball is a big change from how such situations were handled during the early years of baseball. Although arbitration may provide many benefits to the players, there still exists problems with its use. For example, players such as Dwight "Doc" Gooden, Darryl Strawberry and Steve Howe were all reprimanded for using illegal substances several times. They were also suspended from baseball. In all of those cases, they were each allowed to play again, despite the numerous violations. The play-

19. See GREENBERG, supra note 17, at 261.
22. See Williams & Chambless, supra note 8, at 477 ("The most dramatic structural changes [in Major League Baseball] have come in the player's market in the form of arbitration and free agency.").

Arbitration is the "submission of a dispute to an impartial person or persons on the basis of evidence and arguments presented by the parties." Arbitration in the United States became popular during World War II as a means to expeditiously resolve labor disputes and prevent work stoppages that would cripple the war effort. Today almost all collective bargaining agreements contain provisions for settling disputes through arbitration. In the 1970 collective bargaining agreement, the players and owners agreed to employ the arbitration system to settle internal disputes.

Id. (internal citations omitted); see also Kansas City Royals Baseball Corp. v. Major League Players Ass'n, 532 F.2d 615, 620 (1976) (concluding that as declared by Congress resolving questions of arbitrability, arbitration is the most desirable method of settling labor disputes).

25. See Lupica, supra note 25, at A95; Pollack, supra note 1, at 1692.
26. See Lupica, supra note 25, at A95; Verducci, supra note 23, at 16; Pollack, supra note 1, at 1692-93.
27. See Verducci, supra note 23, at 16; Pollack, supra note 1, at 1692.
28. See Pollack, supra note 1, at 1693-98. See generally Lupica, supra note 25, at A95; Verducci, supra note 23, at 16;
ers were given so many chances—but why? What does this do to the young people? What does this do to society? Why should you be able to have that many chances to come back to the game? I can certainly understand situations where players are given a second chance. In such an instance, the player complies with the disciplinary action and then may return to the game. I cannot understand situations where a player can continuously return to the game after being reprimanded for the same problem multiple times.

And of course there are other questions about what the baseball industry should do with people like Pete Rose or “Shoeless” Joe Jackson who was a player with the 1919 “Black Sox.” There is currently a movement to get Jackson into the Hall of Fame. Pete Rose, in my opinion certainly deserves to be in the Hall of Fame. But if you took a vote of all the Hall of Fame players, I believe most of them would say that if Pete Rose goes in, we go out.

IV. CONCLUSION

These are the problems that we have in baseball today. They can surely be settled by legal procedures and arbitration. I could have used arbitration with Branch Rickey, but it was not available then. Whether arbitration and unions in baseball are good or bad is not an easy question to answer. However, one thing it certain: it is all part of the game.