Lawyerball

LAWYERBALL

The Courtroom Battle of the Orioles Against the Nationals and MLB for the Future of Baseball

CHARLES H. MARTIN

Acknowledgements

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DEDICATION

For my grandfather, a Griffith Stadium vendor for more than thirty years, who told me he saw Babe Ruth hit a pop fly so high that "Ruth was standing on third base when the fielder missed it, and Ruth ran home for an inside-the-park homer."

For my father, who took me to many games at D.C./R.F.K. Stadium, where we watched the Senators lose.

For Wayne, Darryl and Butch, my sandlot baseball buddies.

INTRODUCTION

An owners' fight over an "inside baseball" arbitration splitting cable television profits spills into a New York City trial court. *Lawyerball* traces this dispute from the baseball antitrust exemption to the implications of the judge's rulings for the baseball business, the game, its fans, and ordinary Americans.

Lawyerball tells the story of the monopolization of baseball as an American business, and its disappearance from much of American life. It has lessons about the shrinking rights of Americans to go to court with their grievances. It also has lessons about the vanishing freedom of Americans to choose their work. This story about the future of baseball might foretell the future of America.

In 2005, thirty Major League Baseball clubs owned the near-bankrupt Montreal Expos. The clubs signed a television contract with the Baltimore Orioles. The Orioles owner agreed to not sue MLB over the relocation of the Expos to Washington, D.C. In return, MLB gave the Orioles the rights to cablecast the Washington Nationals future games. MLB then sold the Expos to a Washington real estate billionaire. He had to work with the Orioles owner, a class-action lawyer, to make a contract work that he had not negotiated.

The first time these owners were required to cooperate, accusations flew between them. Three years later, the Orioles, the Nationals and MLB sat before a New York trial judge. He would decide how to shift more than $100 million dollars between the teams. He would chart the future of baseball.

[Reader Alert - ...] I have added these alerts from page 78 to page 117 to connect relevant contract sections with later arguments in court. After all, I know where this story is headed. Shouldn't you know too?

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PROLOGUE

Mr. Applegate: "Would you like to be the greatest baseball player in all history?"

Joe Boyd/Joe Hardy: "Ha! Big joke."

Mr. Applegate: "No joke…. With my help a lot of things come easy.... The world is full of crazy things. Crazier everyday…. I have chosen you, the most dedicated partisan of the noble Washington Senators to be the hero who leads them out of the wilderness to the championship…"

Joe: "What happens after I stop being a baseball player. Then where would I be?"

Mr. Applegate: "Well now of course that's fairly well known…. After all there's nothing unusual about it. How do you suppose some of these politicians around town got started? And parking lot owners?....Look I've got something to trade here…"

Joe: "In my business we have what you call an escape clause."

Mr. Applegate: "This is not a real estate deal."

Joe: "If I don't like it, I ought to be able to get out."

Mr. Applegate: "Get out?.... Alright, I'll give you a chance to get out ... on the twenty-fourth of September at midnight. I wouldn't do it, but I don't want to have those damn Yankees win."

-from *Damn Yankees*, the Broadway musical/film

Baseball Goes To Court

60 Centre Street looms over Foley Square in downtown Manhattan like a Roman temple. It is the New York County state courthouse, where a line of legal supplicants waits for entrance through an X-ray and metal detector gauntlet on a gray May morning in 2015. High above these machines and the uniformed guards in the courthouse foyer, in the archway supporting the building dome, is a mural of two god-like figures with the titles "Protection" and "Security". Four gray-silver figures occupy the corners of the entrance vault. Their names are "Authority" (a man with a sword), "Justice" (a blindfolded woman with a sword), "Judgment" (a man with a book) and "Clemency" (a woman).

Men and women in blue and brown business suits enter a courtroom off the second floor rotunda balcony. Some walk with roll-a-bags carrying thick legal documents and files. The hands on the Roman numeral clock on the back wall are stuck on 12 and 8. In the fifteen-foot ceiling, recessed and pendant lights illuminate dark wood wainscoting. Chocolate brown seat pads cover wooden pews. The floor is dark brown with a black marble baseboard. Windows stretch from the tops of radiators to the ceiling. Window blinds cascade down to uncovered casements.

The courtroom is filling quickly for a hearing before Justice Lawrence Marks, of the New York County Supreme Court. Mid-Atlantic Sports Network (MASN) is a regional sports cable network that telecasts the games of the Baltimore Orioles and Washington Nationals baseball teams. Its majority owner has filed a motion that is the subject of the hearing.

A Major League Baseball (MLB) arbitration panel, composed of the owners of three other MLB teams, has required MASN to pay the Washington Nationals franchise (owned by the minority owner of MASN) an amount increasing from $53 million in 2012 to $66 million in 2016 for the rights to cablecast Nationals baseball games. Peter Angelos, the majority owner, wants to vacate the panel's decision.

The day of the hearing before Justice Marks is May 18, 2015.

Why Is the Orioles/MASN Lawsuit the Courtroom Battle for the Future of Baseball?

Why does this book describe this lawsuit as the courtroom battle for the future of baseball? Since 1922, when the U.S. Supreme Court exempted them from the antitrust laws of the United States, the "major leagues" have operated with few limitations on their power to grant or deny professional baseball franchises, to use anti-competitive practices against would-be competitors in the market for professional baseball, and to carve-up exclusive territories in which league "clubs" can operate without competition from other league "clubs".

This unique power has rarely been challenged in court. MLB owners avoid taking their disputes to public courts, where their league governance procedures and club finances might be exposed to public scrutiny. In the few cases where baseball's antitrust exemption has been challenged in court, federal appeals courts, and the U.S. Supreme Court itself, have said that the Supreme Court's 1922 decision was almost certainly wrong.

It had reasoned that professional baseball games were not subject to antitrust laws, because they were not "interstate commerce". Nevertheless, the Supreme Court has said that only the Congress should correct its mistake. Professional baseball has relied on this judicial antitrust exemption for so long, it says, that it would be unjust for that reliance to be penalized by a judicial overturning of the 1922 decision.

If successful, the lawsuit by the MASN regional sports channel against MLB to overturn its internal arbitration award to the Nationals could revolutionize professional baseball. All future decisions by MLB on revenue-sharing and other internal governance issues could become subject to oversight by federal judges as to the fairness and reasonableness of those decisions. The MLB cartel would, in effect, gain a board of directors composed of the more than eight hundred federal judges and several thousand state judges in the courts of the United States. This could be the worst of all worlds: a baseball cartel protected by the federal government and *run* by that government.

Four Pillars of The Baseball Business

The first recorded baseball game between organized teams occurred in Hoboken, New Jersey on June 19, 1846. The business of baseball, as we recognize it today, however, can be traced to five later milestones.

The Cincinnati Redstockings were organized in 1869 as the first team of professional baseball players. Men who played baseball for money joined and left various professional teams freely until 1879. In that year, the two-year old National League of Professional Base Ball Clubs addressed what some club owners perceived as the expensive problem of uncontrolled player mobility. Smaller city clubs complained that their best players were often lured away by the higher salary offers of bigger city clubs.

The First Pillar – The "Five Man Rule"

An unwritten arrangement was made in 1879. The owners agreed that none of them would bargain with a player on a list of five "reserved" players, who were under contract to play for another league team, without that team's permission. This prohibition applied even *after* the player's contract expired. By 1882, when the rival American Association of Base Ball Clubs was formed, this rule entered the National League Constitution.

The Second Pillar – The "National Agreement"

In 1883, all players on a team became subject to the "reserve clause". Under the terms of the "National Agreement for the Government of

Professional Base Ball Clubs" signed in that year, the National League, its "major league" competitor, the American Association of Professional Base Ball Clubs, and the "minor league" National Association of Professional Base Ball Leagues agreed to the reserve clause rules.

The Third Pillar – The Standard Player Contract "Reserve Clause"

In 1887, the reserve clause was written into all player contracts for the first time. A few valuable players objected to the reserve clause, like Providence's George Wright who said it "was outrageous, with no particle of justice in it." After winning fifty-nine games in 1884, Charley Radbourne said "The only difference between the league and slavery is that the managers can't lick you. They have you down so fine that you have no say in the matter at all. I sign a contract with a club, and they can hold me forever, if they see fit, or so long as I want to play ball."

The Fourth Pillar – The American League Joins the National Agreement

In 1903, after two years of player raids from the upstart American League of Professional Base Ball Clubs, the American League joined the National

Agreement, and agreed to respect its reserve clause rules. Arguments were made that the contract reserve clause was invalid, because contract law requires mutuality of obligations, also known as "consideration" from each party, in order for an agreement to be legally enforceable. Clubs could extend a player's one-year contract from year-to-year by exercising their unilateral option to do so. A player's only choice was to accept the extension, or to stop playing baseball. In 1912, this potential obstacle was addressed by an amendment to the National Agreement specifying that seventy-five percent of a player's salary was for his services in a particular year, and twenty-five percent was in return for the club's "right of reservation", the reserve clause.

From 1903 until 1975, the reserve clause, and the 1922 U.S. Supreme Court decision that rejected an antitrust challenge to it, established the foundation for a cartel of professional baseball clubs. The reserve clause was banned by the federal "Curt Flood Act" of 1998. The market for baseball players remained limited, however, by a series of collective bargaining labor agreements that the major leagues signed with the Major League Baseball Players Association, beginning in 1968.

The Creation and Reorganization of the Office of the Commissioner of Baseball

MLB was formed in 1999, through the merger of the offices of the National League and American League Commissioners into the single Office of the Commissioner of Major League Baseball. Previously, the league Commissioners had co-existed with the Commissioner of Baseball.

The first Commissioner of Baseball was Kenesaw Mountain Landis. Landis was an Illinois federal trial judge, who gained fame for his theatricality in court, and for fining Standard Oil $29,000,000 in a 1907 antitrust trial. Landis was chosen by the league owners to restore public confidence in the honesty of baseball after the "Black Sox" gambling scandal in the 1919 World Series.

Landis presided at the 1915 trial of *The Federal League of Professional Baseball Clubs vs. The National League of Professional Baseball Clubs* litigation, in which the Federal League alleged that the National and American Leagues used tactics that violated antitrust laws to force it out of business. The lawsuit was settled after the National League and American League owners reached various business accommodations with most of the Federal League owners. Only the owners of the Baltimore Terrapins club were dissatisfied with the settlement. These owners sued the major leagues for antitrust violations in a case that was ultimately decided by the U.S. Supreme Court in 1922. This later lawsuit is discussed in the third chapter of this book.

Judge Landis was spared the difficulty of choosing between his pro-antitrust and pro-baseball sentiments in the 1915 trial. (He had played baseball and managed a team as a young man, but declined an offer to play professionally.) Nevertheless, his inclinations were clear in his order of dismissal of the 1915 lawsuit, where he stated that

> "There were two sides to that litigation, what was known and called in the argument here and also throughout the great domain of fandom, Organized Baseball and the outlaws….
>
> And so the question I had to decide, in addition to the legal question submitted, was whether or not I would enter an order that would be vitally injurious if not destructive of Organized Baseball."

With those sentiments, it is clear that "Organized Baseball" chose the right man to be its first Commissioner.

Major League Baseball Is A Uniquely Independent Anti-Competitive Cartel

When it comes to professional sports, Major League Baseball is a law unto itself. Vatican City is an independent nation-state located within Rome, Italy, and operating through its churches and affiliated religious orders in many nations of the world. Major League Baseball is an unincorporated association of National League and American League professional baseball franchises, operating in the United States and Canada. Its member "clubs" also operate training camps and facilities in the Dominican Republic.

Vatican City is unique among nation-states. MLB is a unique entity that is less accountable to its host cities and nations than are the other leagues of professional sports teams. Four characteristics of MLB provide this unique independence.

First, MLB is the only organization of sports teams that has a broad exemption from the antitrust laws of the United States of America. These are the laws that restrict anti-competitive activity in commercial marketplaces.

Second, the unincorporated nature of MLB frees it from supervision under the corporation laws of any state. It is not subject to normal corporate regulations on its governance, operations or disclosures.

Third, from 1999 through 2005, MLB had no governing Constitution that replaced the 1876 National League Constitution and the 1926 American League Constitution. The MLB Constitution established in June 2005 expired at the end of 2012. Since then, MLB has operated without an official Constitution.

You might think that the lack of a formal Constitution would be a hindrance to the operations of MLB. When you are an entity that is beyond the reach of most antitrust laws, however, the absence of a basic governing document, like the absence of a state corporate charter, can be an advantage.

Fourth, the owners of the MLB clubs are all private entities. Since Columbia Broadcasting System (CBS) sold the New York Yankees to George Steinbrenner in 1972, no MLB team has been (or is allowed to be) owned by a public company. As a result, neither MLB itself, nor any MLB franchise, is required to disclose to the public the details of its finances or operations. The leagues' privately owned franchises are often organized as

Limited Liability Companies ("LLCs"), which are less subject to state regulation or scrutiny than regular corporations. This individual club structure fits perfectly within an organization of clubs that is exempt from federal and state antitrust laws.

MLB's antitrust exemption depends on the political acquiescence of a majority of the members of the U.S. Congress. They could vote to eliminate it or limit it at any time.

When local elected officials fear that their city will be unable to get or to keep a major league (or MLB-affiliated minor league) franchise, their Representatives and Senators hear from those local officials. When local elected officials feel pressure from MLB club owners to spend taxpayer money on stadiums for teams owned by millionaires or billionaires, their Representatives and Senators hear from those officials.

In response to pressure by local officials, Representatives and Senators will sometimes propose a bill to eliminate baseball's antitrust exemption. They will hold hearings on their proposals that can place unwanted scrutiny on the operations of "the national pastime".

In 1998, the Congress enacted the "Curt Flood

Act". This law restricted MLB's antitrust exemption by eliminating it in the area of player contracts, specifically the "reserve clause" that had restricted a player's movement to a different team after the expiration of his employment contract.

A lawsuit by an owner of a Major League Baseball club against another club, or against MLB, is rare. MLB owners prefer to resolve internally their disputes, or disputes between an owner and MLB. Peter Angelos, the majority owner of the Baltimore Orioles since 1993, however, is not your typical MLB club owner.

Peter Angelos practiced criminal defense law for twenty years, with labor unions as his frequent clients (like a previous Orioles owner, Edward Bennett Williams). In the 1980s, he shifted his practice to class action litigation. He won more than $100 million in damages for asbestos injuries to shipyard workers. He later won other class action injury lawsuits against Philip Morris and Wyeth. His legal fees from these judgments gave Peter Angelos the money that he used to buy the Baltimore Orioles American League franchise.

MLB Club Owners Have Power Under Their Antitrust Exemption to Determine Where Their Competitors Can Operate

In 1990, the San Francisco Giants owners were dissatisfied with their existing stadium and threatened to move to Florida. As an accommodation to them, MLB and the Oakland Athletics club owners agreed that the Giants could relocate to Santa Clara County, California, where San Jose is located. Although they never left San Francisco, the Giants later claimed that Santa Clara was their "exclusive territory". (This designation was written into the 2005 MLB Constitution that expired at the end of 2012, and which has not yet been replaced.)

This "exclusive territory veto" is the subject of a recent lawsuit by the city of San Jose against MLB. The Athletics owners would now like to be able to move their franchise to San Jose. The city of San Jose argues that the designation of San Jose as part of the Giants' exclusive territory was only intended to be effective during the Giants' negotiations with the city of San Francisco to build a new baseball stadium. The Giants argue that the exclusivity was intended to be permanent.

MLB Signed a One-Sided Contract with the Orioles Owner When MLB Owned the Montreal Expos

No designation of Washington, D.C., as the exclusive territory of the Baltimore Orioles, blocked the MLB-owned Montreal Expos' move to Washington. MLB rules only required a majority vote of the owners for the relocation, which they approved in 2004 by a vote of 29-1 (with Angelos's Orioles voting against the move). After the vote, however, Peter Angelos objected to its result and threatened to sue MLB, because he claimed that a new Washington franchise would hurt viewership of, and attendance at, Orioles' games, to a degree that was intolerable. Angelos had previously argued, somewhat inconsistently, that Washington, D.C. would be unable to support an MLB franchise.

In 2005, Peter Angelos negotiated an agreement with MLB that allowed the Montreal Expos franchise to move to Washington, D.C. without the threat of litigation. MLB owned the Expos franchise after buying it from the prior owner (and current Miami Marlins owner), Jeffrey Loria. MLB's earlier plan to contract (eliminate) the Expos franchise was thwarted by a new collective bargaining agreement with the players' union. MLB intended, however, to sell the Expos to a new owner as soon as it could, after moving the Expos to Washington.

Anxious both to get the near-bankrupt Expos off their hands, and to avoid a lawsuit by Peter Angelos, the MLB owners agreed to a contract with Peter Angelos. It was a one-sided contract that heavily favored the Orioles and hampered the Nationals' future owners, whomever they might be.
The contract gave the Orioles the rights to a majority ownership of a regional cable sports channel that would telecast both the Orioles' and the Nationals' baseball games. The Orioles would forever own the majority of the shares of the cable channel (without making any capital contribution). The Nationals' ownership share would increase gradually to a maximum of thirty percent.

The Orioles agreed to pay a less-than-market-price annual rights fee to cablecast the Nationals' games from 2005 to 2011. Starting in 2012, for each succeeding five-year period, a new annual rights fee would be paid to the Nationals based on television market factors.

If the Orioles-owned sports channel could not agree with the Nationals on the amount of the post-2011 rights fees, an arbitration panel of three MLB owners would determine the appropriate rights fees.

It would analyze the value of such fees using television market revenue factors already employed for MLB revenue-sharing purposes.

The Orioles and the Nationals 2012 negotiations on the new rights fees were short-lived. When the Orioles' representative presented his offer to the Nationals' representative, the Nationals' man allegedly threw the offer back in his face. The fee dispute then went to the three-person MLB arbitration panel composed of the owners of the New York Mets, Pittsburgh Pirates, and Tampa Bay Rays.

The Washington Nationals argued before the MLB arbitration panel that they should receive $113 million per year from the regional sports channel for telecasts of their baseball games. The Orioles argued that the Nationals should be paid only $34 million per year. In June, 2014 the arbitration panel decided that the Nationals should be paid an amount starting at $53 million per year in 2012 and increasing to $66 million per year in 2016.

Peter Angelos refused to accept this decision as final. Despite the terms of the contract that prohibited any appeal of the decision to a court of law, he sued in the Supreme Court of New York County, where MLB is headquartered, to overturn the MLB arbitration panel decision.

The Nationals Owner, the Judge, and the Lawyers Line Up in Court

The current principal owner of the Washington Nationals, 89-year-old Theodore (Ted) Lerner shuffles through the X-ray and metal detector line with the other court visitors. He takes his seat on a wooden pew. He wears a navy blue suit with a blue dress shirt. His navy blue tie has a pattern of tiny white dots. His black leather shoes have Velcro straps. Lerner pushes his iPhone 6 into his breast pocket. His advisor sitting next to him drops his own phone onto the floor with a bang. Lerner doesn't look or flinch.

Five lawyers for the Nationals/MLB legal team are seated at the table on the left side of the room. They are four men and one woman. One man has gray hair. The others appear to be in their thirties. "Expect anything" says one of the lawyers.

Five lawyers for the MASN/Orioles legal team are seated at the table on the right side of the room. Three are gray-haired men. One is a graying man, and one is a blond woman. They appear to be in their fifties.

Judge Lawrence Marks enters the courtroom. [I will refer to Justice Marks as Judge Marks, as most trial court judges are described.] He vaguely resembles U.S. Supreme Court Justice Stephen Breyer. He speaks softly as he asks the lawyers to not repeat each other's arguments in their presentations. He says that the hearing cannot go over into the afternoon, because of his schedule. It is 9:35 a.m.

1 - THE FIRST INNING – SENATORS, TWINS, EXPOS, NATIONALS, BROWNS AND ORIOLES

"There are only two seasons – Winter and Baseball." – Bill Veeck, Owner of the St. Louis Browns, Cleveland Indians, and Chicago White Sox

At the Hearing

Thomas Hall (Orioles' lawyer):

> "What should have happened in the first instance was, when we raised the issues with, 'the Nationals should gave gotten new counsel', they should have seen that they were tainting and poisoning the arbitration…"

The Washington Nationals/Senators (1901-1960)

In 1859, the first semi-professional baseball teams were formed in Washington, D.C. The Potomacs and the Nationals were organized by government workers thirteen years after the first recorded baseball game was played with semi-modern rules in Hoboken, New Jersey by the New York Nine and the New York Knickerbockers.

Other Washington teams followed in the 19th Century, including the Olympics of the National

Association, the Statesmen of the American Association, the Nationals of the Union Association, and the Nationals of the National League from 1885 to 1889, for whom a young Connie Mack (first in games won as a major league manager) played as a catcher. The Senators of the National League followed from 1892 to 1900.

A new Washington team, called the Senators from 1901 to 1904, the Nationals from 1905 to 1955, and called the Senators again from 1956 to 1960, became an original member of the new American League that was formed in 1901. Clark Griffith, a spit-ball throwing pitcher from Missouri, recruited National League players to this new league. He led the Chicago White Sox to the first American League pennant.

After managing the New York Highlanders and the Cincinnati Reds, in 1912 Griffith became the manager of the Washington Nationals. He also became the largest stockholder in the club by buying a 10% ownership stake for $27,000. Griffith mortgaged his six-thousand-acre Montana ranch to finance his purchase.

The Griffith-led Nats jumped from seventh place in 1911 to second place in 1912. That year, AL Most Valuable Player and pitcher Walter

Johnson won 36 games and lost 7, with a 1.14 ERA and eleven shutouts.

Through the 1910s, Griffith acquired the players who would form the basis for the Nats' only World Series championship in 1924: outfielder Sam Rice, first baseman Joe Judge, second baseman/manager "Bucky" Harris, outfielder "Goose" Goslin, and shortstop Roger Peckinpaugh.

On Sunday afternoon, October 10, 1924, in the bottom of the twelfth inning at 5:04 p.m., Earl McNeely bounced the second of two Nationals bad-hop singles in the seventh game of the World Series. It hopped over New York Giants third baseman Freddy Lindstrom's head to win the series for the Nationals. Thirty-six-year-old Walter "The Big Train" Johnson won the game with four innings of scoreless relief pitching, only one day after pitching eight innings and losing game six to the Giants (his second loss of the series).

The Washington Nationals returned to the World Series in 1925, but lost to the Pittsburgh Pirates in seven games. In the 1933 World Series, the Nationals lost to the Giants in five games. Then, the long losing years of Washington baseball began.

Major League Baseball was for many years a sport of "have" and "have-not" franchises. Sometimes the status of a franchise turned on whether it was located in a big city. Unlike the National Football League, MLB does not split all regular season and playoffs television revenue evenly. The six-month, 162-game baseball season creates regionally popular teams, rather than nationally popular teams.

Some smaller market teams have leveraged their regional popularity, and their management skill. Branch Rickey created the minor league "farm system" when he ran the St. Louis Cardinals franchise. It helped to create consistently successful teams. The New York Yankees have dominated the American League. The Giants and Dodgers (former New York City teams), and the Cardinals have dominated the National League.

The Washington Nationals/Senators' inability to compete with the Yankees led to a humorous aphorism. It twisted an old tribute to George Washington into "Washington – First in War, First in Peace, and Last in the American League".

Decades of baseball futility led Senators fan and author Douglass Wallop to update the medieval German *Faust* legend. In his book *The Year The Yankees Lost the Pennant*, an aging fan, Joe Boyd, trades his soul to the Devil for the body of a young slugger. He is renamed Joe Hardy. Hardy mysteriously appears one day, then leads the Senators to victory in the pennant race over the Yankees. In the 1950s heyday of Broadway musicals, this book was converted into the popular musical *Damn Yankees*.

The Senators lost most of their games after 1933. Worse still, few fans showed up to watch them lose. Clark Griffith owned the team until his death in 1955. He had no external source of wealth, such as a brewery ownership, to cross-promote or to subsidize his baseball business.

In the 1940s, his rentals of Griffith Stadium to the Washington Homestead Grays (seven-time Negro National League champions) brought in valuable revenue. The Senators did not sign their first African-American player until 1954, however, thereby losing an early opportunity to develop an expanded fan base. Griffith tried to compensate for his talent-challenged teams by becoming one of the first owners to sign Cuban baseball players.

None of these strategies helped. When Griffith's nephew, Calvin Griffith Robertson, and his sister Thelma, inherited the ownership of the team in 1955, they soon followed the path of the Boston

Braves, Philadelphia Athletics, Brooklyn Dodgers and New York Giants westward to greener pastures. In 1960, Calvin Griffith Robertson moved the franchise to Minneapolis-St. Paul in Minnesota.

The Expansion Washington Senators (1961-1971)

The National League and the American League knew the potential danger of leaving the nation's capital without a baseball team. Baseball was the most popular American sport. After the Senators moved to Minnesota, rumors grew of a Congressional threat to eliminate baseball's antitrust exemption. A new expansion Washington Senators franchise was granted to the city in 1961, to accompany the new Los Angeles Angels franchise, in an expanded ten-team American League.

The new expansion Senators arrived with few, if any, competitive advantages. They shared a regional baseball fan base with the Baltimore Orioles, who were located only forty-plus miles to the north. They had no minor league farm system. Their owners had no significant wealth with which to subsidize the team. Perhaps, most importantly, the new owners had no business management experience.

Baseball showman Bill Veeck's interest in buying the expansion Senators was rejected by the majority of the league's owners, who resented his maverick reputation and style. Edward Bennett Williams, the future owner of the Washington Redskins and the Baltimore Orioles, made a formal bid for the expansion team. It lost by the vote of one owner – Calvin Griffith.

The expansion Senators struggled for ten years to achieve only one year with a won/loss record above .500. In 1969, the Hall-of-Fame Red Sox outfielder, Ted Williams, managed the Senators to their only winning record at 86-76.

Frank Howard was a four-time All-Star for the Senators, leading the league in home runs with 44 in 1968, and hitting 48 in 1969 and 44 in 1970. Howard was famous for hitting mammoth home runs, including one 500-foot homer that is recognized by a center field upper deck seat painted white, where it landed in R.F.K. Stadium. In 1972, this franchise moved to Dallas-Fort Worth and became the Texas Rangers.

The Wilderness Years End With the Move of the Montreal Expos to Washington, D.C.

After more than one hundred years of baseball, Washington, D.C. was left without a professional franchise from 1971 until the Montreal Expos franchise moved to the city in 2005. Many excuses were offered for the glaring absence of the "national pastime" in the nation's capital.

Somehow, after one hundred years of baseball, Washington was considered by some club owners to no longer be a "real baseball city". The Baltimore Orioles were said by others to be Washington's baseball team. (This was partly true in that many baseball-starved Washington fans drove to Baltimore to see professional baseball. The Orioles were also owned for a time by the prominent Washington trial lawyer, Edward Bennett Williams.)

Rarely, but occasionally, a subtext for many of these criticisms emerged into public scrutiny, such as the joke that Washington Senators/Minnesota Twins owner Calvin Griffith told at a Lions Club dinner in 1978:

> "I'll tell you why we came to Minnesota. It was when we found out you only had 15,000 blacks here. Black people don't go to ballgames, but they'll fill up a rassling ring and put up such a chant it'll scare you to death. We came here because you've got good, hardworking white people here."

After receiving blistering criticism from the Twins' black and Latino players, Calvin Griffith offered the excuse that he had been inebriated when he made his remarks.

The Twins franchise succeeded almost immediately after it moved to Minnesota, using many players who had been developed in the Washington Nationals/Senators/Minnesota Twins farm system, including Hall-of-Fame players Harmon Killebrew and Rod Carew, and Bob Allison, Tony Oliva, and Zoilo Versalles. The Twins won the World Series in 1987 and 1991.

Later, however, the Twins' popularity declined drastically. They played baseball in the Hubert H. Humphrey Metrodome, which was designed primarily as an indoor football stadium. In the new age of chic retro-designed baseball-only stadiums, it was a relic. The Twins posted losing records from 1993 to 2000.

By 2001, the Twins' owner looked for a buyout from MLB that would allow him to extinguish his franchise and to cease its money-losing operations. The equally floundering Montreal Expos baseball franchise provided a convenient counterpart for matching buy-outs proposed by MLB. These buy-outs would have "contracted" the two leagues to fourteen teams each, after the elimination of both franchises.

On November 5, 2001, the Metropolitan Sports Facilities Commission (MSFC), operator of the Metrodome, threatened legal action if the Twins did not fulfill their 2002 lease obligations.

On November 6, 2001, MLB owners meeting in Chicago voted 28-2 to eliminate the Twins and Expos.

On November 7, the MLB Collective Bargaining Agreement (CBA) with the MLB Players Association expired. MLBPA head Donald Fehr had previously announced his expectation that contraction should only be considered as part of the negotiations for the next CBA. On the same day as the owners' vote, Fehr stated that the owners' unilateral decision to shut down two franchises was "the worst manner in which to begin the process of negotiating a new collective bargaining agreement." The loss of two franchises meant the loss of fifty or more major league jobs for players. On November 7, the Players Association filed a grievance that the owners' contraction plan violated their labor contract.

On November 14, U.S. Senator Paul Wellstone

(D-Minn.) and Representative John Conyers (D-Mich.) introduced legislation to eliminate MLB's federal antitrust exemption.

On November 16, a Minnesota judge granted an injunction request by the MSFC to force the Twins to play their 2002 home schedule in the Metrodome.

On December 4, an arbitrator began hearing testimony on the Players Association grievance to block contraction.

On December 6, the U.S. House of Representatives Judiciary Committee held hearings on MLB's antitrust exemption.

On December 20, the owners of the Boston Red Sox voted to sell their American League franchise to the owner of the Miami Marlins, John Henry.

On January 8, 2002, it was revealed that in 1995 a company owned by the Twins' owner, Carl Pohlad loaned $3 million to the MLB Commissioner and Milwaukee Brewers owner Bud Selig and his franchise.

On January 12, The Washington Post reported that the Expos could be moved to Washington, D.C. for 2003.

After John Henry agreed to make an extra $30 million contribution to charities, the Massachusetts Attorney General withdrew his objection that the charitable trust owner of the Red Sox had not sold the team to the highest bidder, as required by state law.

On January 16, MLB owners officially approved the sale of the Red Sox to John Henry, who agreed to sell the Miami Marlins to the Expos' owner, Jeffrey Loria, for $158.5 million. MLB agreed to buy the Montreal Expos from Loria for $120 million.

On January 17, Commissioner Selig announced that Washington, D.C. was a prime candidate for relocation of the Montreal Expos franchise.

On February 1, MLB owners approved the sale of the Marlins to Loria. The $38.5 million difference between Loria's sale price for the Expos and his purchase price for the Marlins was loaned to him by MLB. The reported terms of the loan were that, if the Marlins did not get a new ballpark within five years, Loria would have to pay back only $23.5 million, and he would not have to pay interest on the loan. If, however, the team got a new ballpark, MLB would get 20 percent of the team’s operating profit during its first five years in the new stadium.

On February 4, the Minnesota Supreme Court refused to consider MLB’s appeal of the state court injunction that forced the Twins to perform their 2002 Metrodome lease obligations.

The Twins soon became successful again, winning the American League Central Division in ’02, ’03, ’04, ’06, ’09 and 2010. In 2010, a new stadium for the Twins, Target Field, opened in downtown Minneapolis.

By 2004, Washington, D.C. had become the overwhelming favorite for the relocation of the Montreal Expos. Between 1972 and 2004, the Washington metropolitan area became one of the ten most populous metropolises in the nation, and perhaps the most affluent. Many baseball-hungry Congressmen were prepared to hold more antitrust exemption hearings, if MLB owners blocked the move of the Expos to Washington.

Perhaps most importantly, the city had an aging, but available and serviceable, 50,000-seat baseball stadium. Robert F. Kennedy Stadium had hosted the expansion Senators from 1962 to 1971. Extended negotiations to build a new stadium were not an explicit requirement of the MLB relocation decision. The District of Columbia Council (similar to a state legislature), however, agreed to build a $440 million baseball-only stadium for the new team.

On December 3, 2004, the MLB owners voted 29-1 to approve the relocation of the Montreal Expos to Washington, D.C. Orioles owner Peter Angelos was the one opposing vote. He threatened to sue MLB to stop the relocation.

MLB made a written agreement with Peter Angelos in 2005. In return for his agreement to not sue MLB over the Expos' relocation to Washington, D.C., MLB gave Angelos the rights to broadcast the new Washington team's games on a regional cable sports network, Mid-Atlantic Sports Network (MASN), of which he would be the majority owner.

The new National League Washington Nationals arrived in Washington, D.C. at R.F.K. Stadium for their first home game before a crowd of 45,596 on April 14, 2005. The long thirty-four year wait for the return of major league baseball had ended.

Among the many ironies of the story of the Expos' relocation were: 1) it was the first MLB franchise relocation since the move in 1972 of the expansion Washington Senators to become the Texas Rangers, 2) a Minnesota stadium authority (with some help from the MLB Players Association and Congress) had stopped the MLB plan to eliminate the Expos by obtaining a court injunction requiring the Minnesota Twins (the former Washington Nationals/Senators) to play the 2002 season in Minneapolis-St. Paul, and 3) the new Washington Nationals had moved from Montreal, Canada, the birthplace of the man who had moved the Washington Nationals/Senators to Minnesota, Calvin Griffith Robertson.

The St. Louis Browns/Baltimore Orioles

In the 19th Century, the Baltimore Orioles was the name of a franchise in the American Association (1882-1892) and in the National League (1892-1899). The latter team included "Wee Willie" Keeler who was legendary for his "hit 'em where they ain't" philosophy of baseball. In the "dead ball" era, the Orioles also perfected a technique of hitting the ball in a high bounce off the ground or home plate to allow the batter to reach first safely (the "Baltimore Chop").

Future Hall of Fame manager John McGraw recruited former National League Orioles players for the new American League Orioles in 1901, after the defunct National League Orioles were raided for talent by their Brooklyn Dodgers co-owners. The new American League Orioles played in Baltimore from 1901 to 1903. They moved to New York to become the New York Highlanders, who were later renamed the New York Yankees. By 1902, John McGraw had already taken many of the Orioles' top players (and the black and orange team colors) to the New York Giants.

The Western League Milwaukee Brewers joined the new American League in 1901, but moved to St. Louis after that season to become the St. Louis Browns. The team was popular, but was mostly unsuccessful on the field. In 1916, the team acquired a new owner, Philip Ball, who changed the course of baseball history (for the worst for the Browns) when he fired Browns general manager Branch Rickey in 1919.

Rickey (known as "The Mahatma" for his baseball wisdom and ethical rectitude) became the general manager of the cross-town National League franchise, the Cardinals. In 1923, Ball allowed the Cardinals to become co-tenants with the Browns in the Sportsman's Park stadium. Rickey reinvested the proceeds from the sale of the Cardinals' old ballpark into his new innovation, a minor league "farm" system. He later racially re-integrated baseball by signing Jackie Robinson for the Brooklyn Dodgers in 1947. As the Pittsburgh general manager in 1953, he required that all Pirates players wear batting helmets, another baseball innovation.

From 1927 to 1943 the Browns had only two winning seasons, while their co-tenants, the Cardinals, flourished. On the eve of the Japanese attack on Pearl Harbor, the American League was prepared to vote to approve the move of the Browns to Los Angeles. After the attack, those plans were shelved.

The Browns won their only American League pennant in 1944. All the World Series games were played in Sportsman's Park, where the Browns lost to the Cardinals in six games. More years of futility followed, interrupted only after 1951 by the antics of new owner Bill Veeck. He entertained fans, but infuriated the AL President, by sending 3-foot 7-inch Eddie Gaedel to the plate as a batter. Gaedel walked on four pitches in his only at-bat.

Veeck's attempts to drive the declining Cardinals out of town ended when the Cardinals were purchased by hometown beer baron August Busch. Conceding defeat, Veeck sold Sportsman's Park to the Cardinals. Veeck's attempts to move the

Browns to Milwaukee or Baltimore were blocked by NL owners who resented his previous exploits. The Browns declined to the point that they had to ration batting practice and game baseballs.

In 1954, Veeck was forced out of ownership of the Browns by the other NL owners. The new Browns owners, led by brewery owner Jerold Hoffberger, received quick approval to move the team to Baltimore for the 1954 season. The last Browns owners to profit from their St. Louis legacy were the public shareholders who had bought shares in 1936 to shore up the club's finances. They were bought out by the Orioles owner, Edward Bennett Williams, in 1979.

Beginning with the hiring in 1954 of Paul Richards as manager and general manager, the Orioles developed a reputation for methodical instruction of their players in baseball fundamentals. In 1958, Lee McPhail succeeded Richards as general manager, and improved the Orioles scouting system.

Beginning in 1960, the Orioles steadily improved their performances. In 1964, third baseman Brooks Robinson won the AL Most Valuable Player award. In 1965, the Orioles traded pitcher Milt Pappas to the Cincinnati Reds for 1956

NL Rookie-of-the-Year and 1960 NL Most Valuable Player Frank Robinson. The team won the World Series in 1966, 1970 and 1983.

The Orioles enjoyed eighteen consecutive winning seasons from 1968 to 1985. In 1971, the team had four 20-game winners (Mike Cuellar, Jim Palmer, Pat Dobson, and Dave McNally). John "Boog" Powell won the AL Most Valuable Player Award in 1970. Cal Ripkin, Jr. was AL MVP twice, in 1983 and 1991. In 1995, shortstop Cal Ripkin, Jr. broke Yankee first baseman Lou Gehrig's streak of 2130 consecutive games played. He extended the streak in 1998 to 2,632 games.

In 1992, a new stadium, Orioles Park at Camden Yards, opened in the revitalized Inner Harbor area of downtown Baltimore. The design of the ballpark ushered in a period of "retro" architecture designs in baseball stadiums. These stadiums mixed early 20th century features, like outfield walls of varying distances and features, with modern conveniences. They made 1960s-era shared baseball/football circular stadiums obsolete. Nevertheless, the Orioles suffered fourteen straight losing seasons from 1998 to 2011.

The Washington Nationals Managers Who Came from the Baltimore Orioles

In 1966, Frank Robinson won the American League Most Valuable Player Award (the only player to win the award in both leagues) and became only the tenth MLB player to win the baseball "Triple Crown" for the highest batting average, most home runs, and most runs-batted-in in one season.

The Orioles defeated the Los Angeles Dodgers in four games in the 1966 World Series. They won three consecutive AL pennants from 1969 to 1971, winning the 1970 World Series over the Cincinnati Reds. Frank Robinson was inducted into the MLB Hall of Fame in 1982. Bronze statues of Robinson are located at both Baltimore's Orioles Park and Cincinnati's Great American Ball Park.

Robinson became MLB's first African-American manager with the Cleveland Indians in 1975, and the National League's first African-American manager with the San Francisco Giants in 1981. Robinson was an MLB executive in 2002, when he accepted MLB's request for him to manage the Montreal Expos. He continued to manage the franchise through its transition into the Washington Nationals until 2006.