

Cornering the Market: The Yankees and the Interplay of Labor and Antitrust Laws

by Ed Edmonds*

I. Introduction

The New York Yankees are, of course, the most successful single franchise in Major League Baseball history. They established this tradition in large measure because their ownership understood better than the competition how to acquire front office, managerial, and player talent. Being located in America's largest metropolitan area is significant to the Yankees' success. However, that fact alone is not enough to produce the sustained success of the franchise. For most of their history, the Yankees have been blessed with well-funded ownership that properly exploited the value of the team to increase revenue to sustain the acquisition of talent throughout the organization. The team has long exhibited a knack for outwitting and outmaneuvering other franchises. In no small measure, the Yankees have understood best how the business of baseball works and how the relationship of law to the business of baseball can be used advantageously.

The Yankees were established as an American League team in 1903 after the purchase and relocation of the Baltimore franchise to New York. For the next 50 years, the Yankees were the youngest of Major League Baseball's sixteen teams. Although the Yankees unsuccessfully struggled to reach the top during their first 18 years, the Manhattan-based team was busily establishing the foundation for their appearance in 37 World Series contests between 1921 and 2000.

The first great period of Yankee dominance began in 1921 and lasted until 1928. They played in six World Series during the Twenties and won three, causing a shift of city power across the Harlem River from John McGraw's Giants to a team housed in newly constructed Yankee Stadium. Without a doubt, the acquisition of Babe Ruth was the most significant factor in the creation of this dominance. The purchase of Ruth from the Boston Red Sox established a trend that the Yankees have used throughout their subsequent history to produce championship teams. Whenever it seemed necessary, the Yankees have been able to acquire an additional player by simply purchasing or trading with another Major League franchise.

During the seven years between 1929 and 1935, the Yankees won only the 1932 American League crown and World Series. They returned to the top in 1936 and won six pennants and World Series crowns through the 1943 season. During the span of 22

seasons between 1921 and 1943, the Yankees won 13 American League pennants and 9 World Series championships.

The second great period of Yankee dominance stretched from 1947 through 1964. During this 18-year stretch, the Yankees captured 15 pennants and 10 World Series. From 1949 until 1957, the three New York-based teams dominated Major League Baseball by garnering 15 of the 18 World Series spots. However, in 1958 the Giants and Dodgers moved to California, leaving only the Yankees in New York until the expansion Mets entered the market in 1962.

In November 1964, Columbia Broadcasting Network purchased 80% of the Yankees for \$11.2 million. The Yankees struggled through this period of corporate ownership marked by the emergence of the Major League Baseball Players Association and the creation of free agency and salary arbitration. The Steinbrenner Era started in January 1973, when a limited partnership, headed by George M. Steinbrenner III as its managing general partner, purchased the Yankees from CBS for \$10 million. Steinbrenner's teams appeared in four World Series between 1976 and 1981. The current period of Yankee dominance includes appearances in all but one of the World Series from 1996–2001. This current period is marked by the dramatic increase in value of the Yankees' media rights fees, allowing the team to greatly outspend the vast majority of other teams.

II. The Reserve Clause

For three-quarters of the twentieth century, the most significant factor in the labor relationship between management and players in Major League Baseball was the existence of the reserve clause. The United States Supreme Court decided a trilogy of cases¹ that created Major League Baseball's "Antitrust Exemption," and the reserve clause was central to all three decisions. The antitrust exemption perpetuated a system that provided ownership with great leverage over players who desired both more control over the team for which they would play and increased salaries.

Baseball's exemption from antitrust scrutiny was created in 1922 when the United States Supreme Court rendered its opinion in *Federal Baseball Club v. National League*.² Although the Yankees were not a central part of the litigation, the importance of the New York market was a significant factor. The Yankees figured prominently in the middle case, *Toolson v. New York Yankees, Inc.*³ The Yankees were sued in *Toolson* by a career minor leaguer acquired from the Boston Red Sox. Toolson initiated his suit after the Yankees attempted to reassign him from Newark, their AAA farm team, to Binghamton in the Eastern League. The ownership of the Yankees by Columbia Broadcasting System was a factor in the early stages of the third and final case, *Flood v. Kuhn*.⁴

The reserve clause essentially bound a player to one particular Major League team and forbid that player from jumping to another team for a higher salary. National League owners, guided by Boston owner Arthur Soden, created the reserve clause on September 29, 1879.⁵ Arguing that salaries were too high, the owners reached a secret agreement to protect five players from jumping to another member team for the 1880 season. The use of the reserve clause during the final twenty years of the 19th century assisted the National League in fighting off challenges from the Players League, Union

Association and the American Association to emerge near the end of the decade as the only major league.

III. The Creation of the American League

The American League was born in 1900, under the leadership of Ban Johnson, the president of the minor league Western League.⁶ When the established National League refused to recognize Johnson's league, the owners declared open war on the older league by refusing to recognize the reserve clauses of National League teams and began to raid the rosters of the older established teams. The result was a number of lawsuits by teams seeking injunctive relief to prevent the players from moving to the new league for higher salaries.

Perhaps the most significant of these suits was *Philadelphia Ball Club v. Lajoie*.⁷ The Philadelphia Phillies initiated a suit seeking injunctive relief against future Hall of Fame player Napoleon Lajoie. Initially, the Court of Common Pleas of Philadelphia County refused to issue an injunction holding that "to warrant the interference prayed for 'the defendant's services must be unique, extraordinary, and of such a character as to render it impossible to replace him; so that his breach of contract would result in irreparable loss to the plaintiff.'"⁸ The court simply did not consider Lajoie's qualifications to measure up to this high standard.

The lower court opinion was overturned on appeal to the Supreme Court of Pennsylvania. The justices felt that requiring a showing of impossibility of replacement of the player was too extreme. Noting that Lajoie "may not be the sun in the baseball firmament, but he is certainly a bright particular star,"⁹ the court ordered the issuance of the injunction. Ban Johnson reacted by shifting Lajoie to the Cleveland Indians after ten games of the 1902 season. Because no Ohio court would claim jurisdiction and enforce the injunction, Johnson's American League succeeded in keeping Lajoie. To avoid the jurisdiction of the Pennsylvania courts, Lajoie did not come to Philadelphia during the season. Instead, he received a free vacation in Atlantic City, and the American League earned the service of one of baseball's finest second baseman.¹⁰

In January 1903, the owners of the American and National Leagues signed a peace agreement pledging the enforcement of the reserve clause between the two leagues.¹¹ Later that year, the two leagues and a number of minor leagues signed the "National Agreement." The new pact established a National Commission to ensure that teams abided by the reserve clause and territorial rights. The labor stability of baseball would not be challenged again until the rise of the Federal League.

Another major event in the history of baseball took place in January 1903.¹² Ban Johnson had wanted a team in the New York market since the founding of the league. He succeeded in talking gambling house owner Frank Farrell and former chief of police Bill Devery into purchasing the Baltimore franchise for \$18,000 and moving the team to Manhattan. The two owners quickly erected a stadium at 168th Street and Broadway. The team was nicknamed the Highlanders because their park was located on one of the highest points in Manhattan and also to honor Joseph Gordon, the man chosen to be team president. Gordon's Highlanders were a well-known regiment in the British Army. The New York team debuted on the road on April 22, 1903, in Washington, D.C. Despite the presence of three future Hall-of-Famers, player-manager Clark Griffith,

pitcher Jack Chesbro, and outfielder Wee Willie Keeler, they lost to the Senators, 3-1. The team would be renamed the Yankees in 1913 by Jim Price, the sports editor of the *New York Press* who was looking for a shorter nickname. That same year the team left small Hilltop Park to share the Polo Grounds with the Giants.

IV. The Rise and Fall of the Federal League¹³

In 1913, after a decade of labor peace in Organized Baseball, the Federal League was organized by a number of prosperous businessmen. Before the 1914 season, Federal League President James Gilmore requested parity with the other two major leagues and the right to operate under the National Agreement. When Gilmore and his owners were rebuffed, they decided to pour money into new stadiums in their eight cities and to compete directly with the established leagues in Brooklyn, Chicago, Pittsburgh, and St. Louis. The Federal League also refused to honor the reserve clauses of the teams bound by the National Agreement. The teams in Organized Baseball had coupled their reserve clause to another clause, known as the blacklist, that declared a player ineligible for three years if he signed with a team outside of Organized Baseball. Although attendance at Federal League games in 1914 did not rival that of the American or National League, it did impact attendance in the older two leagues.

The Feds signed 81 major leaguers and 140 minor leaguers to contracts, causing an escalation of salaries. Ray "Slim" Caldwell, a pitcher for the Yankees, signed an offer from a Federal League team after making \$2,400 in 1913. Caldwell had pitched in 27 games for the Yankees in 1913 and ended the season with a 9-8 record. The Yankees were forced to give Caldwell a four-year deal at \$8,000 annually to resign him before the season began. Caldwell responded with a 17-win season in 1914 and 19 wins in 1915. At the end of the 1918 season, Caldwell was sent to the Red Sox with Frank Gilhooley, Slim Love, Roxy Walter, and \$15,000 for veteran players Ernie Shore, Duffy Lewis, and Dutch Leonard. Trades with the Boston Red Sox over the next decade would be a significant factor in the success of the Yankees.

Many Major League franchises filed lawsuits seeking injunctive relief to prevent the Federal League from raiding their rosters. A New York court denied a request by the Chicago White Sox to prevent controversial first baseman Hal Chase from playing for the Buffalo Federals. Chase had played with the Highlanders/Yankees from 1905 until a trade to the White Sox during the 1913 season prompted by Manager Frank Chance. Chase had irritated Chance by openly ridiculing the manager in the dugout. Chase, whose gambling habits would ultimately cost him a spot on a Major League roster, had been a fan favorite during his New York career.

On January 5, 1915, the Federal League filed suit in federal court in Chicago claiming that Organized Baseball was in violation of antitrust laws.¹⁴ The case was assigned to trustbusting judge Kenesaw Mountain Landis. The trial was completed by January 22, but Landis was in no rush to decide the case.

The 1915 season commenced with new competition for the Yankees. Oil magnate Harry Sinclair moved the champions of the 1914 season, the Indianapolis Federals, to Newark.

Sinclair, who would later gain prominence and public disgrace for his involvement in the Teapot Dome Scandal, would be a moving force in the future events of the Federal League. The 1915 season was financially ruinous for most of the Federal League franchises. Before the season was over, the Kansas City and Buffalo teams folded under the pressure.

Federal League President Gilmore convinced Sinclair and Brooklyn Federals' owner R.B. Ward to join him in a more direct attack on Organized Baseball and New York. The three purchased an option on vacant land at 143rd Street and Lenox Avenue. They contacted Corry Comstock, the vice-president of the Pittsburgh Federals and a New York City engineer to create plans for a 55,000-seat stadium on the site. Gilmore then leaked to the press the plans for the Federal League to play in New York during the upcoming 1916 season. But Gilmore and his compatriots never intended to play in New York or build a new stadium. They simply wanted to pressure Organized Baseball into offering a settlement. They hoped that their ruse would create some leverage.

On December 13, 1915, Gilmore and Sinclair went to the office of John K. Tener, National League President and former governor of Pennsylvania, to hear a proposal from Organized Baseball. They hammered out a deal that satisfied every remaining Federal League team owner except Baltimore Terrapins owner Carroll W. Rasin. First, the owners of Federal League teams were paid \$600,000 to dissolve the League and drop the antitrust action. Second, each of the Federal League owners was allowed to sell their players' contracts to the highest bidder. Third, all blacklisted players from the Federal League were declared eligible to play for National League and American League teams. Fourth, the National League owners purchased the Brooklyn Federals' stadium for \$400,000. The American League owners had to pay one-half of that settlement. Fifth, Chicago Federals (Whales) owner Charles E. Weeghman was allowed to purchase the Chicago Cubs for \$500,000 and the National League contributed \$50,000 of the purchase price. Sixth, the National League owners purchased the Pittsburgh Federals for \$50,000. Seventh, Phil Ball, the owner of the St. Louis Federals (Terriers) team received the American League franchise in St. Louis. The purchase price was \$525,000.

At a meeting on December 17, 1915, National Commission President and Cincinnati Reds owner August Herrmann called a meeting of representatives of Organized Baseball and the Federal League owners at New York's Waldorf-Astoria Hotel. The assembled group, particularly Chicago White Sox owner Charles Comiskey and Brooklyn owner Charles Ebbets, ridiculed the Baltimore group by asserting that Baltimore was nothing but a minor league town, and a poor one at best. The Terrapins owners left the meeting with nothing. The Baltimore group went to the United States Department of Justice claiming that Organized Baseball was violating federal antitrust laws. However, Assistant Attorney General Todd declared that he had no reason to look into the matter.

On September 20, 1917, the owners filed suit in Washington, D.C. It took over one and one-half years of legal wrangling before the case went to trial. The jury rendered a favorable verdict to the Terrapins' owners. After trebling the assessed damages of \$80,000 and adding attorneys' fees, the judgment against Organized Baseball was \$254,000.

Organized Baseball appealed the decision to the Court of Appeals for the District of Columbia. On December 5, 1920,¹⁵ Chief Justice Constantine J. Smyth rendered the court's opinion reversing the lower court. Smyth's opinion went to heart of the issue

framed by lawyers for Organized Baseball, that baseball was not trade or commerce within the meaning of the Sherman Antitrust Act:

The business in which the appellants were engaged, as we have seen, was the giving of exhibitions of baseball. A game of baseball is not susceptible of being transferred. The players, it is true, travel from place to place in interstate commerce, but they are not the game. Not until they come into contact with their opponents on the baseball field and the contest opens does the game come into existence. It is local in its beginning and in its end. Nothing is transferred in the process to those who patronize it. The exertions of skill and agility which they witness may excite in them pleasurable emotions, just as might a view of a beautiful picture or a masterly performance of some drama; but the game effects no exchange of things according to the meaning of 'trade and commerce' as defined above.¹⁶

The case was appealed to the United States Supreme Court. Seventeen months after the Court of Appeals had ruled in favor of Organized Baseball, over five years since the case had been filed, and nearly seven years after the last Federal League game, the Supreme Court rendered its opinion authored by Justice Oliver Wendell Holmes.¹⁷ Holmes echoed Smyth's opinion:

The business is giving exhibitions of base ball, which are purely state affairs. It is true that, in order to attain for these exhibitions the great popularity that they have achieved, competitions must be arranged between clubs from different cities and States. But the fact that in order to give the exhibitions the Leagues must induce free persons to cross state lines and must arrange and pay for their doing so is not enough to change the character of the business. According to the distinction insisted upon in *Hooper v. California*, 155 U.S. 648, 655, the transport is a mere incident, not the essential thing. That to which it is incident, the exhibition, although made for money would not be called trade or commerce in the commonly accepted use of those words. As it is put by the defendants, personal effort, nor related to production, is not a subject of commerce. That which in its consummation is not commerce does not become commerce among the States because the transportation that we have mentioned takes place.¹⁸

Although Holmes' opinion has been criticized extensively, one should be careful not to view a 1922 decision through the lens of a later time. The regulation of trade prior to the passage of the Sherman Act supports the noted jurist's point that "personal effort" or human labor was not considered commerce in the same sense as production or manufacturing of goods. The brunt of Holmes' point in the remainder of the paragraph is that the nature of travel could not transform something that was essentially not commerce into commerce.

Furthermore, the court's decision should be placed in the larger historical context of the history of the sport. The baseball public had been rocked by rumors that the 1919 World Series between the Chicago White Sox and the Cincinnati Reds had been fixed.¹⁹ The image of the game was severely shaken. Seven Sox players were tried in Chicago for running a confidence game. Aided by the disappearance of grand jury testimony, the group was found not guilty after a celebrated trial closely followed by a national audience. The owners felt that the damage to the integrity of the game demanded a new administrative structure. To achieve that goal, they turned over nearly complete power of the game to new commissioner Kenesaw Mountain Landis. Landis would ban a total of eight players involved in the fixing scheme despite the court's decision. Had Organized Baseball not

reacted strongly to the scandal, the Supreme Court and Congress might have shown a greater interest in becoming involved with the internal workings of the game. Instead, the decision in *Federal Baseball* allowed ownership to maintain all of the leverage in its dealings with players. Against the backdrop of the defeat of the only league to seriously challenge Organized Baseball until the Mexican League targeted Major League players in post-World War II America, the Yankees were beginning to flourish under new ownership.

V. The Arrival of New Owners²⁰

The relationship between the Yankees' original owners, Farrell and Devery, quickly dissolved into bitter bickering over the direction of the on-field operation. Gordon was dismissed as president, and Farrell took over the position. Attendance declined as the owners meddled with Manager Griffith's actions, causing him to depart in the middle of the 1908 season. A succession of managers failed to produce a pennant winner, and the relationship between the two owners weakened. Meanwhile, Giants manager John McGraw had introduced Jacob Ruppert, a brewer who had developed his enterprise into a multi-million dollar venture, to Tillinghast L'Hommedieu Huston, a successful engineer during the Spanish-American War. Although the duo wanted to buy the Giants, McGraw fended them off and pushed them towards buying the Yankees from Farrell and Devery. On January 11, 1915, Ruppert and Huston purchased the Yankees for \$460,000. Devery and Farrell split the money and parted company, never to speak to each other again. Devery died in 1919, and Farrell passed away seven years later. Both had squandered all of their assets.

The new owners brought significant financial resources to the Yankees and a willingness to spend it to strengthen the team. Frank "Home Run" Baker, a veteran of four World Series with the Philadelphia Athletics, was persuaded to come out of retirement if the Yankees owners would purchase his release from Connie Mack's team. This was accomplished for the sum of \$25,000. Baker would play for the Yankees from 1916 until 1922. The owners made one other significant deal with Mack. In July 1915, they purchased the contract of pitcher Bob Shawkey for \$18,000. Shawkey hurled for 12 more seasons in New York. From 1919 through 1924, Shawkey won at least 16 games each year including three 20-win seasons. He finished his career with nearly 200 wins. Wally Pipp and Hughie High were purchased for the waiver price of \$7,500 from Detroit Tigers owner Frank Navin. Pipp anchored the infield at first base from 1915 until 1925 when a young Columbia graduate named Lou Gehrig replaced him in the lineup. High contributed three seasons of 100-plus games in the outfield. The greatest Yankee success, however, was saved for two deals with the Boston Red Sox.

VI. Huston and Ruppert Tangle with Ban Johnson over Carl Mays²¹

The 1914 Major League season was the year of the "Miracle Braves." Boston's National League entry stormed from last place in July to grab the league crown and sweep the Philadelphia Athletics in the World Series. Late in the season, Boston's other team, the Red Sox, brought up a duo of star pitchers from the International League champion Prov-

idence Grays to play the final two weeks of the season. The two joined a strong Red Sox pitching staff including Smoky Joe Wood, Dutch Leonard, Rube Foster, and Ernie Shore. Both new men would be stars for Boston and, later in their careers, the Yankees. One would earn his fame as a hitter with immense talent and charisma while the other would gain infamy as the only pitcher to ever kill a man during a Major League game with a pitched ball. George Herman "Babe" Ruth and Carl Mays had arrived in the big leagues.

Mays quickly assumed a major role on the Red Sox staff right behind Ruth. While Ruth won 18 games in 1915 and followed up with two 20-win campaigns, Mays matched the three-year feat beginning in the following year. The Red Sox won the American League pennant three times and finished second once during the four year span. But the 1919 season started differently. Red Sox owner Harry Frazee was strapped for money. In the midst of the strong run of his Broadway hit *Nothing but the Truth*, Frazee had joined a silent partner from Philadelphia to purchase the Red Sox from Joe Lannin on November 1, 1916, for a price between \$400,000 and \$700,000. Frazee pledged much of the purchase price in future payments. Three years later, Frazee was without a theatrical success, and he turned to his baseball team seeking financial help. Over the winter he had engineered the trade to the Yankees of Ernie Shore, Dutch Leonard, and Duffy Lewis for Ray Caldwell. Ruth was holding out for the first time in his career, and Mays refused to sign his contract. The successful Red Sox franchise was poised to enter a prolonged era of intense frustration for its rabid fans, and their demise would benefit the Yankees by adding the players they needed to establish themselves as the dominant team in the American League in the 1920s. Mays began the year pitching well, but his team failed to provide any run support. By July 13, 1919, his record was 5-11.

Mays began that day pitching against the rising stars of the American League, the Chicago White Sox. Trailing 4-0 in the second inning, Red Sox catcher Wally Schang attempted a throw to second base to get a Chisox runner. Instead, he hit Mays in the back of the head. Although the runner failed to score, Mays left the mound at the end of the inning extremely agitated. Throwing down his glove, he headed for the clubhouse exclaiming, "I'll never pitch for this ballclub again!"²² When Red Sox manager Ed Barrow was told his pitcher had left the field, he sent pitcher Sam Jones to check on his starter. Jones found Mays undressing in the clubhouse. When Jones told Mays that Barrow wanted him back on the field, he told his teammate to simply tell their manager, "I've gone fishing."²³ When Barrow sent another player to check on the condition of Mays, he found the star hurler sitting in front of his locker weeping.

Mays took a taxi back to the Red Sox hotel, packed his bags, and checked out. Leaving a note apparently claiming that he was "despondent over some personal problems,"²⁴ he left for Pennsylvania. Earlier that year, Mays' new home in Mansfield, Missouri, had burned, destroying all of his mementos from his playing career. Mays was also upset with his treatment by the Red Sox concerning a fine from American League President Ban Johnson when Mays fired a ball into the stands during a Memorial Day game in Philadelphia. The Red Sox were refusing to cover the cost of the fine.

Upon learning of the Chicago incident, Frazee saw an opportunity to raise some money. He called Barrow and said, "Don't suspend this fellow. The Yankees want him and I can get a lot of money for him."²⁵ Chicago, Cleveland, Detroit, and Washington were also interested in Mays. White Sox owner Charles Comiskey, whose treatment of his team would provide the undercurrent for throwing the upcoming World Series, offered \$25,000. League President Ban Johnson was not amused. He contacted all of his owners trying to nix any trade talk until Frazee disciplined Mays.

Over two weeks passed with Mays relaxing in Pennsylvania when the pitcher received a call in Pennsylvania from Huston. Mays told Huston if the money was right he would be happy to pitch for the Yankees. Frazee did not need to hear anything more. He traded Mays to the Yankees for \$40,000 and marginal players Allan Russell and Bob McGraw.

Ban Johnson was in St. Louis with J. G. Taylor Spink, the publisher of *The Sporting News*. He was furious to open the morning newspaper and see a story proclaiming the trade. He immediately suspended Mays, the type of action he often took when affairs in the league were not to his liking. He sent a message to all league umpires:

You are hereby notified the American League has suspended Carl W. Mays of the Boston Club by reason of his desertion of the club and the breaking of his contract. He will not be permitted to take part in any games until you receive direct notice from me.²⁶

Ruppert now claimed that Mays was a Yankee. The two Yankees' owners met with Johnson at a stormy meeting that failed to resolve the matter. Comiskey, Frazee, and the two Yankees owners were aligned against Johnson and the remainder of the owners. The Yankees owners headed to the New York Supreme Court seeking an injunction against Johnson. The court responded positively, and on August 7 the umpires were served with the court order at the Polo Grounds before a Yankees-Browns doubleheader. Mays threw a six-hitter to win 8-2. The New York press responded by naming him "The Injunction Kid."

The season continued with Mays winning nine games for his new team. The Yankees edged the Tigers for third by one-half game. Because only the top three teams shared in the World Series earnings, Detroit owner Navin moved to block the distribution of the \$13,000 third-place share.

On October 26, New York Supreme Court Judge Robert F. Wagner granted an injunction for the Yankees by siding unequivocally with Huston and Ruppert against Johnson. The league president was not pleased with the brazen attack upon his usually undisputed control over the league. The Yankees, however, received a player who would win 53 games while pitching almost 650 innings over the next two seasons.

Wagner's opinion proved to be a complete attack on Johnson's position. The future United States Senator began his opinion by showing his support for the Yankees: "Suspension of a player, therefore, not only interferes with his individual contract, but may also interfere with the reputation and collective ability of the club."²⁷

Before delivering his legal analysis, Wagner characterized Mays in the following manner:

In the very early stages of the contest he played concededly below the standard of skill which he usually exhibited. At this time, and for some time prior thereto, Mays had shown a disposition of discontent and nervousness which he attributed to personal difficulties and the worry incident thereto. On behalf of the defendant it is claimed that his disposition was one of recalcitrancy and desire to abandon his contract. . . . Barrow, the manager of the Boston club, immediately sent two players to him to ascertain his condition. The latter reported to Barrow that they found Mays in a condition of great nervous tension, and indeed of practical nervous collapse. . . . Mays told Frazee that he was suffering from a nervous breakdown, that he could be of no service to the Boston Club by reason of his condition, that he desired to take a rest, and that he was ready to report to the Boston Club whenever directed.²⁸

Wagner started his analysis by offering two interpretations of Johnson's actions. At trial, Johnson argued his actions were meant to punish both the Boston and New York teams

for the decision to go forward with the trade. However, Wagner felt that Mays was the true target for punishment. If Johnson meant to punish the teams, Wagner reasoned that the act was “clearly *ultra vires*” because the constitution of the American League did not grant to the league president the power to discipline teams.²⁹ Only the board of directors could exercise the power to discipline under sections 6, 7, and 10. Furthermore, Wagner argued that it was not the trade but the lack of discipline by the Red Sox that prompted Johnson’s suspension. Because the Yankees could not discipline Mays for an act involving his relationship with the Red Sox, Wagner saw the Yankees as “the real sufferer” because they were “obliged to pay the salary of Mays while it was deprived of his services.”³⁰

Wagner turned next to a consideration of Johnson’s actions under the theory that the goal was to punish Mays. Johnson had conceded that the primary right of discipline belonged to Boston, yet he asserted that he enjoyed a similar power as league president. Wagner quoted sections 20 and 24 of the league constitution. He reasoned that section 20 provided Johnson with power only with respect to the “general welfare of the game.” Section 24, however, was a specific grant to the teams and general grants of power should be subordinated to specific grants of power. After quoting Matthew Bacon on equity and statutory construction, Wagner looked at the similarity between the American League Constitution and the older National League Constitution. This analysis led Wagner to conclude “the construction becomes inevitable that it was the intention of the framers to give unmodified and unrestricted power to the clubs in respect to their purely internal affairs.”³¹

To strengthen his argument against Johnson, Wagner next considered whether Johnson’s actions were “in the performance of his duties” as required under section 20.³² Because Wagner felt that Mays’ act of desertion or breach of contract did not happen on the field, the judge characterized Johnson’s suspension as unauthorized. If Johnson’s suspension was based on his supervisory powers, section 36 of the constitution did not give a right beyond the ministerial duty to send complaints to the board. Wagner finished his analysis of the constitutional provisions by concluding that Johnson had no power to issue the injunction.

Wagner was not finished criticizing Johnson. Johnson argued that he had often exercised similar powers and those actions had not been questioned. Quoting Washington’s Farewell Address, Wagner made it clear that Johnson could not “acquire power by continual usurption.”³³ Completing his opinion by granting the injunction, Wagner again attacked the league president for an act that was “to say the least, not fortified with that perfect appreciation of the facts which evinces a desire to do equity to all parties concerned.”³⁴

The Yankees’ owners were ecstatic, “Our fight has not been for Mays alone, but to safeguard the vested and property rights of the individual club owner against the encroachments on club rights by the president, who has never been clothed with the powers that he has taken unto himself.”³⁵

With Tigers owner Frank Navin as the peacemaker, the owners gathered in Chicago on February 10, 1920, to deal with the aftermath of the trade and Wagner’s decision. They emerged at 2:00 a.m. the next morning after enduring three lengthy sessions. Johnson and his owner allies were completely defeated. Mays would remain a Yankee, and he would not be penalized. The third-place finish by the Yankees was recognized, and they would be immediately granted their World Series share. To curb the president’s power, Ruppert and Griffith were appointed together to a committee to consider any major suspension or fine. If the two did not agree, the tie-breaking vote would go to a

Chicago federal judge rather than Johnson. Johnson would never regain the power he had enjoyed as league president. Now, Ruppert and Huston assumed the place of power within the ownership group. However, the most important action taken by the two owners as the team entered the 1920s was the acquisition of the one Red Sox player who would have the greatest impact of any single individual on the game. That player was Babe Ruth.

Unfortunately, tragedy accompanied the reuniting of Mays and Ruth in New York. On August 16, 1920, Mays threw a pitch that struck Cleveland Indians shortstop Ray Chapman in the head. Chapman died the next day despite a one hour and fifteen minute operation to remove both a piece of skull and to deal with numerous blood clots. Ultimately, the Yankees parted company with Mays when he was sold to the Cincinnati Reds in December 1923 for cash.

VII. The Arrival of Ruth³⁶

During the last week of 1919 and the first days of 1920, the Yankees returned to Boston and Red Sox owner Harry Frazee to complete a blockbuster deal. Frazee needed money to cover his Broadway debts and to pay the notes held by Lannin on the original purchase of the Red Sox. Ruth had aggravated the Sox owner by demanding a doubling of his salary for the upcoming year. The day after Christmas, Frazee called Ruppert looking for a loan. Frazee needed \$500,000 for the Broadway productions that he wanted to finance. At the same time, Frazee was telling the press in Boston that he was willing to deal any player except future Hall-of-Fame outfielder Harry Hooper. When the quick negotiations were concluded, Ruth went to the Yankees for \$125,000 and a \$350,000 loan against the mortgage on Fenway Park. The Uniform Agreement for Transfer of a Player was dated December 26, 1919, and included the final two years of Ruth's three-year deal with the Red Sox. The Boston owner received an immediate payment of \$25,000. Because Huston was leery of a loan based upon a ballpark, Ruppert made that part of the deal on his own. It was nearly one year later before Ruppert's interest in Fenway became nationally known, but such an obvious conflict of interest was not unusual for the time. In fact, Ban Johnson's interest in the Cleveland Indians had been cited as a reason for his suspension of Mays in 1919 when the White Sox, Indians, and Yankees were battling for the American League pennant. The mortgage outlasted Frazee's ownership of the Red Sox.

Although the bulk of Ruth's purchase price was a well-secured loan, the deal cost Ruppert and Huston more than they had paid to purchase the Yankees. Furthermore, it eclipsed the \$55,000 that Cleveland had paid for Tris Speaker, the \$50,000 price that the White Sox paid for Eddie Collins or the \$32,000 and two players involved in the purchase of Joe Jackson by the White Sox. In an oft-heard refrain throughout baseball history, the *New York Times* chided both teams because a good player could demand "an imposing salary" from one of the poorer owners, only to have "somebody in New York or Chicago...buy his services."³⁷

Frazee would sell another ten players to the Yankees when he needed to raise money. On December 15, 1920, the Red Sox sent Harry Harper, Waite Hoyt, Mike McNally, and Wally Schang to New York for Muddy Ruel, Del Pratt, Hank Thomahle, and Sammy Vick. Hoyt would be a mainstay through part of the 1930 season. His annual victory totals beginning in 1921, were 19, 19, 17, 18, 11, 16, 22, 23, and 10 through the

