

# Greedy Millionaires Wanting More?

## The Labor Movement and Sport

The United States labor movement is a dinosaur. It is on its last legs. These are just some of the common perceptions about organized labor in America. While it is certainly true that the labor movement is struggling, it is a long way from death, and that is a good thing for tens of millions of workers. Without the labor movement it is very doubtful that workers would have “[t]he eight-hour workday, five-day workweek, paid vacations, retirement and health-care benefits, safety regulations, bans on sweatshops or child labor, protections against employment discrimination, and other workplace advances now taken for granted. . . . [These] were the result of struggles—invariably protected, often bloody, and sometimes even deadly—by workers and their unions.”<sup>1</sup> Quite simply, unions have helped *all* workers lead a better life. Indeed, as I argued in *Unions in Crisis*: “Union members receive better wages, health care and pensions compared to non-union members. Moreover, the decline in the average American’s weekly wage corresponds with the decline in unionism. Unions are essential to the livelihood of the American people. . . . Without a strong union movement, ordinary Americans’ quality of life will suffer.”<sup>2</sup> However, one could easily be thinking to oneself, What does this have to do with professional athletes in the big four American sports?

After all, it is often assumed that professional athletes in baseball, basketball, football, and hockey are greedy millionaires always wanting more money and better working conditions. They are selfish individuals who have no idea how ordinary people live. When it comes to labor issues in sports, it involves millionaires in dispute with billionaires; each group as self-interested as the other. Apart from 1904, the World Series was played every year in times of war and depression. That was of course,

until 1994 when the self-serving players destroyed the entire season. Multimillion-dollar contracts were not good enough for them. Likewise, the 2005 National Hockey League (NHL) season was cancelled and the Stanley Cup finals not played thanks to similar gluttonous beasts. After all, one can never have enough sports cars, Armani suits, and Rolexes. These are the common perceptions of athletes in the United States when they go out on strike. This is also true when owners lockout the players. Indeed, it is easy to blame the players. After all, they are lucky to play sports, so-called children's games, for a living; that is something so many wish and/or strive for, yet so few are able to do. The players are rich and famous, but that is not enough for them. Indeed, in just three years of the current decade there have been work stoppages in the NHL, National Basketball Association (NBA), and the National Football League (NFL). Only baseball has been spared the ever-increasing greed of the players; even then, the players have never had it so good. These individuals have ruined the sports we all love.

However, as is often the case, the truth is vastly different. There is a link between an ordinary worker and a professional athlete. As the doyen of sports broadcasting, Howard Cosell, argued: "Maybe you don't see a connection between those men and women who risked everything they had to ask for minimum wage, overtime, and safe working conditions, and football players, basketball players, and baseball players, especially given the rather substantial wages some of them receive. The connection is there, however, and it is as real as the Super Bowl, the NBA finals, and the World Series. And I'm telling you it's every bit as important, because what is at stake when professional athletes strike is a principle, and a protection for every working man and woman, a protection once fought for in the streets of our nation, with fists and guns, and lynching and mass arrests."<sup>3</sup> Even when it comes to money, certainly athletes in Major League Baseball (MLB), NBA, NFL, and NHL receive substantially more than the average American. However, a person working at a factory or an office may be employed for decades—although with the advent of neoliberal globalization such a luxury is often not afforded to an employee anywhere else in the world. An athlete's career may last only one, two, or five years, and a career-ending injury might happen at any moment. Generally, they have very little to fall back on. In the end, a sportsperson only has a limited time in the sun. Their struggles may be more high profile and involve a larger amount of money than the average worker's, but like any employee, baseball, basketball, football, and hockey players want, and often deserve, a larger slice of the

economic pie and to have better working conditions. Quite simply, they want what we all want.

Likewise, when they have gone on strike the players generally did not do so to just fatten their wallets, but also for matters of principle. Despite the higher profile and greater sums of money involved, labor relations in MLB, NBA, NFL, and NHL are no different than labor relations in any other occupation. Even when it comes to money, as I note in the following chapter, owners were complaining about baseball players' salaries in the 1880s. It was a similar situation in basketball, football, and hockey. Throughout history, people have always claimed that players received too much money. Sports have become a multibillion-dollar industry; as the profits and net worth of teams have grown, so have player salaries. Just because the players receive higher salaries than in the past does not make the issues they face any less important. Considering how many people are fans and/or directly or indirectly employed by the respective sports, major labor unrest in MLB, NFL, NBA, and NHL that leads to a strike or lockout in any of the big four sports is something that affects millions of people around the world.

### Traditional Unions versus Unions in Sports

While labor relations in MLB, NBA, NFL, and NHL may be no different than in any other occupation, it can be argued that player associations/unions in sports are different than traditional unions. Indeed, there are a number of differences. The most important is that while a traditional union deals with a single employer and sets a certain wage for its members, sports unions deal with multiple employers and do not negotiate a set wage (outside of the minimum), only the bargaining parameters. Likewise, while there may be some differences in income and skill level among members of a traditional union, these are magnified significantly in a sports union. The difference in income between, for example, a starting pitcher and a journeyman reliever struggling to stay in the majors can amount to millions of dollars per year. Such differences are true in each of the big four sports.

In addition, a person might belong to a traditional union for a number of years, if not decades, during which the membership is relatively stable. However, a number of rookies join sports unions every year, so that, combined with retirements and players being fired, the turnover in sports unions is immense. A further difference is that, unlike in many

industries across the United States, sports owners cannot threaten players that their jobs can be outsourced overseas. As we shall see, however, team owners have used other means to try to convince players to agree to concessions.

Finally, as Robert C. Berry and William B. Gould note, “A union exists for the representation of all workers in its organization. This premise seems simple, but in sports it is complex. A player who views himself or herself as special likely will feel loyalties to his or her perceived best interests or to the persons or entities that can best satisfy these interests, such as an agent, other counselors, or even the club owners. These loyalties may supplant this player’s allegiance to the union, thereby impeding the union from fulfilling its representative function.”<sup>4</sup> However, despite these differences, there are important similarities between the two types of union.

First, traditional unions attempt to secure wage increases for their members; they want their members to have a growing share in the revenues of a company. Likewise, sport unions want their members to secure higher wages. Of course, as the following chapters will highlight, in recent years they have generally not been successful.

Second, traditional unions have been successful in narrowing wage inequality. In contrast, through achieving free agency for their members sports unions have inadvertently increased wage inequality. On the surface this does seem a difference between the two types of unions. However, free agency has helped all players and led to them receiving vastly higher salaries. For example, when the NFL implemented “Plan B” which granted free agency to players not rated as among the best thirty-seven players on a team, the players saw a massive increase in salary. Their wages increased by 61 percent when they switched teams. Free agency is beneficial to star and non-star players. Thus, even though a key aspect of a sports union’s platform seemed to lead to increased wage inequality, in fact it helped everyone. In addition, there have been instances where sports unions have tried to narrow the inequality in compensation between stars and journeymen; for example, the National Basketball Players Association pushed for this in the 1998 collective bargaining agreement (see the NBA chapter for details). Helping all workers is a key aspect of both traditional unions and sports unions.

Third, there is a similarity between the two types of unions regarding nonwage collective bargaining issues. Both traditional unions and sports unions give their members a collective voice and have negotiated grievance procedures in collective bargaining agreements, to protect

workers from “arbitrary, capricious, or discriminatory discipline meted out by managers” in the workplace or penalties imposed by owners and league officials in the sporting realm.

Seniority is also an important consideration in the values held by both traditional unions and sports unions. In traditional unions, protection of workers according to their seniority is important as it usually ensures job security in the event of layoffs, by assuring that the last person hired is the first person fired. For sports unions, seniority is important because it is often the case that players with X number of years of service are eligible for full pensions, and that players with more service time receive a higher level of pay compared to those with less. Moreover, as we shall see, players with X number of years of service are eligible for free agency. For both traditional and sports unions, seniority is a cornerstone.

Finally, both traditional unions and sports unions have accepted two-tier wage structures. Some traditional unions have accepted companies giving new employees a lower level of salary compared to current employees. In some sports unions, rookies are subjected to a salary cap well below established players’ pay.<sup>5</sup>

There is one more similarity; this being crucial. The majority of traditional unions across America have been fighting a rearguard action against concession bargaining. “Concession bargaining” refers to the practice whereby a union is forced by an employer to accept lower wages, pensions, and benefits as well as worse working conditions. Employers demand concessions irrespective of whether the company is making or losing money. In many ways, concession bargaining has become the new norm, occurring in almost every industry. As labor academics Rick Fantasia and Kim Voss argue, “From the makers of agricultural implements, aluminum, automobiles, buildings, glass, newspapers, oil, processed meats, rubber, steel, to airlines, mine owners, supermarket chains, trucking companies, to local and regional governments and school districts, came demands for wage cuts, wage and pension freezes, reduction or elimination of automatic cost-of-living adjustments, and the establishment of permanently lower pay scales for newly hired workers.”<sup>6</sup>

In the NBA, NFL, and NHL the respective unions have engaged in concession bargaining for a number of years. Only the Major League Baseball Players Association has managed to generally, though not always, resist concessions. Sports unions, like many traditional unions, are trying to hang onto hard fought gains. Their off-the-field battles mirror the collective bargaining struggles waged by traditional unions in the United States.

The following chapters highlight many instances where owners have argued that they could not afford to pay players more and/or have demanded concessions because their teams were losing money. On the surface, this seems like a reasonable argument. After all, no business owner likes losing money. However, it is crucial to remember that owning a sporting side is usually not the same as owning any other business. In the overwhelming number of cases, the team is not the owner's primary source of income; he (or she) has acquired it more for prestige than as a money-making operation. Nonetheless, businesspeople want to receive a good return on their investment. In this regard, by owning a sports team a person benefits economically in a number of ways. First, unlike in any other business, tax laws allow that once a person buys a team they can deduct whatever player contracts they have inherited, at present as well as into the future. As Lance Taubin notes, "If Donald Trump bought the Miami Heat tomorrow, he would deduct LeBron James' entire six-year \$110 million contract that Micky Arison (the current owner) awarded James in 2010 under [tax section] 197, while also deducting the \$17–22 million per year for the four remaining years on his contract under [section] 162. This is incredibly favorable for Trump, as he already deducted James' entire \$100 million contract under [section] 197 and can also deduct the remaining \$80 or so million over the next four years, merely under a different provision of the code-section [tax section] 162." In other words, it is a double deduction.

Second, an owner can use his/her team as a tax shelter for their other business(es). If a team is losing money, an owner can allocate the loss, a loss being "revenue minus costs minus amortization," to any of their other businesses; "The practical effect significantly reduces owners' tax liability, which is as valuable (arguably more valuable) than if the IRS simply handed the owners millions of dollars every year." Moreover, "if Donald Trump bought the Yankees for \$1.5 billion, he could deduct about \$100 million per year for 15 years on profits not only from the Yankees but from his other companies that made a profit."

An owner can also conceal profits by lending money to the team. In return, the owner receives interest; interest that is considered a cost on the team's profit and loss statement. Finally, under accounting rules and regulations it is relatively "easy" to use legal creative techniques to make it seem as the team is worse off financially than is the case. For example, current Toronto Blue Jays president Paul Beeston stated, "Under generally accepted accounting principles, I can turn a \$4 million profit into a \$2 million loss and I can get every national accounting

firm to agree with me.” Taubin correctly argues that roster depreciation allowance and “non-monetized benefits help to explain why most of the owners, who are allegedly operating at a loss, refuse to sell their teams. If the NBA were a typical profit-maximization business, as the NBA claims, any rational owner who consistently brings in losses would jump at the chance to sell their business for what is sure to be a healthy premium.” This rarely happens in the NBA or MLB, NFL, or NHL because owning a sporting team is quite often the same as owning a proverbial gold mine.<sup>7</sup> In contrast, if a player has a contract that pays him \$1 million per year, he receives \$1 million, minus taxes, management fees, etc. This is something to consider the next time an owner cites financial hardship, claiming that his/her team is losing millions of dollars, and that as a result players need to agree to concessions.

## Structure of the Book

The book will look at labor struggles in baseball, basketball, football, and hockey. The underlying theme throughout is that solidarity is essential. As Sara Ahmed eloquently states, “Solidarity does not assume that our struggles are the same struggles, or that our pain is the same pain, or that our hope is for the same future. Solidarity involves commitment, and work, as well as the recognition that even if we do not have the same feelings, or the same lives, or the same bodies, we do live on common ground.”<sup>8</sup> For the players, whether a star or a journeyman, the current common ground is one in which the owners in recent years have been trying to claw back the gains made by the players in previous eras. The owners want the players to engage in concession bargaining irrespective of whether their teams are economically successful, as is the case in the NFL, or not, as in a minority of cases in the NBA and NHL. Where the players have been united, no matter what sport and decade, they have been able to achieve substantially more compared to when they have shown a lack of unity. Another theme, especially when it comes to free agency, is that while at times there has been a lack of distinct success in collective bargaining, the players have been a lot more successful through the court system in achieving their goals.

Chapter 2 looks at labor struggles in baseball. For decades, baseball players did not earn their just rewards. This changed with the formation of the Major League Baseball Players Association (MLBPA), specifically under the leadership of Marvin Miller. The MLBPA under Miller was

militant and the players were united. This led to the players' gaining a fair share of the economic pie, something that continues to the present day.

Chapter 3 analyzes labor struggles in the NFL. In contrast to their brethren in baseball, football players have often lacked solidarity and this has cost them at the negotiating table, but in a promising development the players displayed unity during the 2011 lockout. While often struggling during collective bargaining, via the court system the players have achieved economic success through obtaining free agency. The biggest issue facing NFL players today is that of concussions. Unfortunately, despite some changes by the NFL not enough is being done.

Chapter 4 looks at the athleticism and individualism of the NBA. While the individualism has, depending on one's taste, made the game more exciting, it also manifests itself off the court, which has hurt the players in collective bargaining, as they have displayed a lack of unity that first manifested itself in 1995.

Chapter 5 looks at the "rough and tumble" of the NHL. For decades, NHL players achieved very modest gains under the company union approach of Alan Eagleson. Following Eagleson's resignation, NHL players achieved significant gains under more militant leadership. This, however, led to a significant backlash from the owners and NHL Commissioner Gary Bettman who implemented a series of lockouts. This has resulted in the National Hockey League Player Association engaging in concession bargaining that has economically impacted the players.

Finally, chapter 6 provides an overview of what has been discussed before and what the future may hold.