

The Legacy Of Marvin Miller

Written by {ga=gdbenz}

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The Major League Baseball Players Union is widely recognized as the strongest union in all of professional sports, and the architect of that union was a man by the name of Marvin Miller. Once again this year, Miller was snubbed by the Veterans Committee for a spot in the Baseball Hall of Fame, which prompted Hal Bodley of the USA Today to call for an investigation. Gary Benz says the vets may have it right though. Like his successor Don Fehr, Miller served his constituency well. But it was under his watch that the union began fighting drug testing and turning a blind eye to performance enhancing drugs.



The Veterans Committee failed, again, this year to elect anyone to the Baseball Hall of Fame. This may be of some interest to Ron Santo or Gil Hodges fans but for most the news invokes nothing more than a shrug.

But Hal Bodley, in [Tuesday's USA Today](#), upped the stakes by suggesting that if Marvin Miller, the long time head of the players union, didn't get voted in by the Veterans Committee there should be an investigation. Bodley's point was that as the architect of what has become the most powerful union in professional sports, Miller's influence on the game is profound. But according to the [Veterans Committee's rules](#), to be eligible a person such as Miller's "overall contribution" to the game must be considered. Thus, while it's hard to disagree with Bodley that Miller's impact on the game was profound, whether that influence contributed to the overall good of the game is highly debatable.

It's probably not necessary to talk about the history of unionism generally or it's relationship to professional sports. Suffice it to say that when it comes to baseball, the owners got what they deserved when the players union gained much of its momentum under Marvin Miller. (For a good discussion on the history of the Major League Baseball Players Association, see [here](#))

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The major sticking point when Miller arrived in 1965 was the reserve clause which, in operation, bound a player to his club until the club, in its sole discretion, released the player. Thus, for example, if a player had a two-year contract, at its conclusion his only choice was to negotiate a new deal with his current club or quit. Only if released by his club was a player free to play for another. He wasn't otherwise free to sign elsewhere. Clearly the presence of this clause, standard in all player contracts, gave all the economic leverage to the clubs forcing the players into a take-it-or-leave-it situation. In the days of the reserve clause and even in the several years thereafter, it was not unusual for a player to get a pay cut if he had a poor year. He had no choice. These days, of course, the only thing a poor year gets is a smaller raise.

Miller's major achievement with respect to the reserve clause was to get it reversed through binding arbitration. To understand how that happened and to fully appreciate its impact, recall that the most famous challenge to the reserve clause was by St. Louis Cardinals outfielder Curt Flood, who sued the owners for allegedly violating antitrust laws. (An excellent four-part series on the entire Curt Flood matter can be found by searching the main archives on www.athomeplate.com) Federal antitrust laws apply only to businesses engaged in interstate commerce or businesses affecting interstate commerce. In most cases a business will likely fall into one or the other categories and thus be subject to federal law. Flood argued that baseball was a business in interstate commerce and that the clubs, as separate entities engaged collectively in interstate commerce, used the reserve clause as a means of stifling competition for player services. Typically, it is illegal for such businesses to conspire in that fashion and if found guilty they are liable for treble damages or three times the actual damage caused.

The battle Flood faced, however, was that at the time professional baseball was deemed to be exempt from antitrust laws through a series of Supreme Court decisions dating back to 1922. In essence, the Supreme Court had ruled in those days that baseball games were exhibitions and any impact on interstate commerce was incidental. This may have been technically true in 1922 but had long since ceased to be the case by the time of the Flood case in 1970. However, considering the Supreme Court precedent, the trial court in the Flood case was reluctant to rule to the contrary and thus upheld the antitrust exemption and dismissed the case. Eventually the case made its way to the Supreme Court which, oddly, upheld its prior decisions based on the traditions of the game. Of course this ruling was in spite of the major changes in the game since 1922, in spite of the fact that no other professional sport enjoyed a similar exemption, and, most importantly, in spite of the fact that baseball clearly was involved in interstate commerce. Consider, for example, how many different states each major league team must travel to in order to play away games. In fact, for nearly every major league team, every away game is in a different state. In spite of having virtually every legal reason to rule in Flood's favor, the Supreme Court felt that it was up to

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Congress to change baseball's antitrust exemption, not the courts. This anomalous result continues to this day.

Although Miller and the players' union backed the Flood lawsuit and lost, the battle was hardly over. One of Miller's first tasks when he took over was to negotiate into the collective bargaining agreement a binding grievance arbitration process, something common in most collective bargaining agreements. This allowed players to take contractual disputes to a neutral arbitrator. Two players, under Miller's guidance, Andy Messersmith and Dave McNally, challenged the reserve clause as a violation of the collective bargaining agreement. This allowed the dispute to go to an arbitrator and in 1975, Peter Seitz ruled that the reserve clause only bound the player to his club for one additional year and not in perpetuity. This essentially put an end to the reserve clause and opened the gate for what would eventually become free agency.

The reserve clause was an antiquated concept that couldn't stand and probably existed far too long. Free agency, properly implemented, is basically good for the game, the players and the fans, although not in equal measures. Still, it's hard to find fault in Miller for working so hard to make this a reality. But the advent of free agency, in some fashion, likely would have happened even without Miller as Congress has often rattled the saber of eliminating the antitrust exemption as a way of getting baseball owners to do what they want, including toughen drug testing policies. But even if free agency never would have happened without Miller, it hardly seems like a sufficient reason in and of itself to enshrine him in the Hall of Fame unless you're going to also enshrine the arbitrator who had the courage to render the actual decision.

The main sticking point on Miller though is the rest of his influence on the game, which hasn't been nearly as good for the fans. Under his watch and that of his hand-picked successor, Donald Fehr, there have been five strikes by the players. The first strike, in 1972, resulted in the loss of 86 games. Its conclusion brought about salary arbitration, a system the fans are still paying for today.

The 1981 strike cost a whopping 713 games and a split season. Cleveland fans will recall that the season resumed on August 10 with the All Star game played in Cleveland. More importantly, it was this strike that really opened the breach between the players and their fans

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that free agency only exacerbates to this day. It really was the beginning of the haves vs. have nots system that still exists and is responsible, in large part, for the lack of true competitive and economic balance in the league, robbing the fans the full benefit that baseball could offer. Not surprisingly, following the strike attendance and television ratings dropped drastically.

The last major strike began in August, 1994 and resulted in the loss of the rest of that season, including the post season. In all, 938 games were lost. When the strike was settled just prior to the beginning of the 1995 season, a rough form of a salary cap and revenue sharing was in place. But for fans, if the bloom wasn't off the rose in 1981, it certainly was after what happened in 1994. Baseball may still have legions of fans but few if any don't completely understand that it is a business and that they are now considered the least important part of the equation.

It was also under Miller's watch and more so under Fehr's that performance enhancing drugs really began to shape the cynical way in which many modern day baseball records and, by proxy, the players who set them are viewed. Fehr, following the blueprint of his mentor, effectively squelched any effective drug testing program as an alleged violation of the players' rights. Maybe so, but in the end it was the fans, again, who suffered for the loss of integrity in the sport.

This point here isn't to criticize Miller for doing his job or to stake out some sort of anti-union stance. But never forget that Miller was a hired gun whose sole interest was in enhancing the status of his clients, the players. Miller never once tried to instill in them the importance of the fans to the health of the game and, as a result, the distance between the players and the fans, which began under Miller's watch, has never been greater. For anyone who still doubts this premise consider the [story](#) just the other day in which Fehr, according to Gary Sheffield, basically told the players not to cooperate in former Senator George Mitchell's probe into steroids. If the integrity of the game and the interests of the fans are truly critical then Fehr should be encouraging the players to ferret out the cheaters, not protect them.

Miller (and, by extension, Fehr) may have done right by his constituency, but he was hardly a guardian of the game for the greater good to anyone who considers fans to be critical. Put another way, if anyone can name one benefit any fan received out of any of the work stoppages propagated by Miller or how, in any sense, the fan's interests have been served by the union's refusal to seriously address drug issues it is then and only then when it will be

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time for any serious consideration of Marvin Miller for the Hall of Fame.