

Australian Baseballers Form A Team Of Their Own'

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'Players want to play at the top of their ability and the Australian Baseball League is stopping them from doing this'.²

On 6 December 1994 a function was held at the Sydney offices of the Media, Entertainment and Arts Alliance heralding the formation of the Australian Baseball Players' Association (ABPA). The affair was relatively low key with office bearers of the Association and Media Alliance in attendance, players from the Sydney Blues, Stefan Kamasz, General Manager of the Australian Baseball League (ABL), Bruce Portner of the Canberra Bushrangers, representatives from the media (Special Broadcasting Service and *Inside Sport*) and other interested persons.

The formation of the ABPA constitutes the twenty-seventh attempt by different generations of players across a variety of Australian team sports to form player associations or unions to protect and advance their employment rights and interests.³ Of the previous twenty-six attempts only four have survived the test of time—and two have been in existence for only a relatively short period. These four survivors are the Australian Football League Players' Association formed in 1973 (under the then title of the Victorian Football League Players' Association—it changed its name in 1989 following the Victorian Football League (VFL) transforming itself into the Australian Football League [AFL])—the Rugby League Players' Union formed in 1979 (under the then title of the Association of Rugby League Professionals), the Basketball Players' Association of Australia formed in 1989, and the Australian Unity Soccer Players' Union formed in 1993. In 1993 both the Rugby League and soccer bodies merged with the Media Alliance as autonomous bodies within its Professional Sports Branch. The Australian football and basketball organisations decided to share administrative facilities in 1993.

While the formation of the ABPA adds another chapter to the annals of Australian unionism, it may also represent an important

development for Australian baseball. Even though baseball has been played in Australia for over a century, it has been traditionally regarded as a minor or Cinderella pursuit languishing in the shadows of cricket, Australia's popular summer sport.⁴ The summer of 1989/90 witnessed the inauguration of the ABL, a national competition with clubs in each of the mainland states. The promotional literature of that time claimed that a national competition would 'be the vehicle for baseball to gain public recognition and to promote the profile and status of the sport'.⁵

The ABL, and its constituent clubs see themselves as being involved in a commercial activity where the desired outcome is to make profits. Notwithstanding this, the League has found itself caught in a twilight zone between amateur and professional sport. On the one hand, the League has sought to maintain the amateur status of players because of its relationship with the Australian Baseball Federation (ABF), and the latter's membership of the International Baseball Association, the governing body of amateur baseball. On the other hand, it has found itself pulled towards professionalism by Major League Baseball in North America both in terms of the logistic, financial, coaching and player support provided to Australian clubs and as a source of player talent for Major League clubs. The resolution to this conundrum is being provided, or more correctly, forced by the International Olympic Committee's (IOC) insistence that the best (that is, professional) players be made available to those sports which wish to appear at the Olympic Games.

The object of this article is to provide an account of the events which led to the emergence of the ABPA. To do this it will be necessary to place the formation of the Association into the context of developments which have occurred in Australian baseball. The article will be organised into five sections. It begins with an examination of the place of Australia in international baseball focusing on the nature of the relationships, or tensions, between the International Baseball Association, Major League Baseball and the IOC. The second section will present information concerning various aspects associated with the structure of the League, and its financial, or product market, operations. This will be followed by a presentation of the various labour market rules which regulate the employment of players. The fourth section will provide details on the formation, structure and operation of the ABPA. The final section will draw together the major themes of the article.

Australia and International Baseball

Baseball is a game which originated and was developed in the United States of America (USA). Its hold on the popular imagination is such that it has been regarded as America's national pastime. The progress and fortunes of baseball in Australia seem to have been inextricably linked to the interest Americans have displayed in promoting the game 'down under'. In what might be more myth than fact it has been claimed that baseball was first played in Australia by American miners on the Ballarat goldfields in the 1850s:⁶ Baseball was intermittently played in Melbourne and Sydney during the 1880s. The game received a fillip following a tour of two teams—Chicago and 'All America'—organised by promoter Albert Goodwill Spalding during the summer of 1888/89. Games were played in Sydney, Melbourne, Adelaide and Ballarat. Spalding told a reporter that he had decided to tour Australia 'for the purpose of extending [his] sporting goods business to that quarter of the globe and to create a market for goods there'.⁷

In 1897 an Australian side of eleven Victorians and two South Australians, under manager Harry Musgrove, who had recently managed an Australia cricket tour to England, played twenty-six games on 'a disastrous tour' of the USA. The fallout from this failed attempt to emulate the success of Australian cricketers in the motherland was such that baseball languished in Melbourne until 1904, and was not played in Adelaide again until 1908. A regular club competition developed in Sydney in 1899—New South Wales had not been involved in the 1897 tour.

Visits by Americans were occasions to promote baseball in Australia, whether it be sailors shaking out their sea legs, such as the 'Great White Fleet' in 1908, a ship in 1923 and the *Augusta* in 1934; or club sides, including New York Giants and Chicago White Sox in 1914 and Multnomah from Portland, Oregon in 1929; or university teams, such as Stanford University in 1928. Similarly, a Japanese team toured Australia in 1919, and in 1924 games were played against the sailors of a Japanese warship. Before World War II Japanese residents were active in the Sydney competition, donating the Nippon Cup to the winners of the first grade competition.⁸ During World War II Australian baseball flourished, despite the absence of players, due to the presence of a large number of American servicemen.⁹

In 1933 Norman (Norrie) Claxton, one of Australia's leading all round sportsmen, donated a shield for an annual competition between state teams. For more than half a century the Claxton Shield was the major event in the baseball calendar. Competition for the shield ended in 1989 in a tug of war between rival groups over the formation of the ABL (see below).

Baseball in Australia has traditionally played second fiddle to cricket. In trying to avoid competition for spectators, and more importantly players, games were mainly played in winter. In the southern states baseball was played as a curtain raiser to games of Australian football. Many of Australia's leading cricketers played baseball during winter to 'keep their eye in' and to hone their fielding skills. In 1973 baseball reverted to a summer format, not with an eye to taking on cricket, but to enable spectators to watch games in better weather and to avoid clashes with overseas competitions.¹⁰ Associated with the move to summer attempts were made during the 1970s and 1980s to develop international contacts and import American coaches to lift standards of play. In 1980 Federal Government funding secured the appointment of an American as the first Director of National Coaching.¹¹

The ABF is the governing authority of Australian baseball.¹² In 1988 Queensland sporting promoter John Brown approached the Federation with a proposal to develop a national league. A rival group of four interested franchise holders objected to the terms of Brown's proposal. There were also fears within the Federation that Brown would usurp its hitherto control of Australian baseball. The rival group purchased a shelf company which they named as the ABL. The Federation decided to join forces with the rivals which based their operation on the American model of private team ownership. The Federation and League entered into a joint venture where the former granted the latter a licence to operate a national league. This precipitated a major split within the Federation with directors from New South Wales, Queensland and the Northern Territory resigning (they have since rejoined). Legal actions resulted involving considerable sums for a sport which has never had much money.¹³

In its early promotional literature the League claimed that 'the most significant factor which will influence the sport in the immediate future is the inclusion of baseball as a full medal sport in the Olympic Games'.¹⁴ Baseball was a demonstration sport at Seoul in 1988, with

Australia finishing fifth. To maintain Australian baseball's link with the Olympics and other international competitions it has been maintained that Australia's 'player rules' need to be consistent with those of the IOC and the International Baseball Association. The latter organisation has eighty-six member countries. Major League Baseball in the USA, however, is not affiliated to the amateur United States Baseball Federation, and hence, to the International Baseball Association.¹⁵

The International Baseball Association's constitution celebrates the amateur ideal. The relevant sections are:

Article 53 With reference to the sport in which an athlete seeks amateur eligibility, he must participate primarily for his own self-expression and satisfaction. He must not have, at any time, accepted money or other material consideration as a direct result of his participation in any sport.

Article 54 A competitor must observe and abide the regulations of the IBA that control amateur baseball, even if these regulations should be more strict than those imposed by the International Olympic Committee.

Article 55 Anyone who is playing knowingly with or against professionals will lose his amateur status, unless such competition has been authorised by the Federation, Association or Organisation in his own country. These exceptions ... should be reported to the Secretary General of IBA ...

Article 56 A participant may: Accept help ... for:

1. Food and lodging expenses
2. Transportation expenses
3. Per diem for personal expenses
4. Insurance expenses to cover accidents, illness and personal belongings
5. Payment for medical and physiotherapy services
6. Reimbursement of personal instructors
7. Purchase of personal equipment and sport uniforms ...

Article 57 A participant shall not:

- a) Be or have been a professional in any sport. A baseball player becomes a professional when he signs a contract and either receives remuneration or participates in official professional games.

- b) Have allowed that his person, his name, his picture or his sport records be exploited for publicity purposes unless IBA, his National Olympic Committee or National Federation, Association or Organisation has signed a publicity contract for the teams or for sponsorship. In this case payments should be made to IBA, the National Olympic Committee or the interested National Federation, Association or Organisation and never to the athlete.¹⁶

Over the years there have been strong feelings of antipathy expressed by the International Baseball Association to Major League Baseball. Major League clubs, in their never ending quest for glory, have attracted increasing numbers of players from, mainly Latin America, to either train or play with their organisations. Once a player signs with a Major League club, under International Baseball Association rules, the player loses his amateur status and is lost to baseball in his country. It is feasible, however, that article 55 of the International Baseball Association's Constitution, which provides that an amateur can play with a professional, if his national association approves, would provide an escape clause, as it has in Australia, for players previously contracted to Major League clubs. John Ostermeyer, National Executive Director of the ABF, in an address to an executive board meeting of the Major League Baseball Players' Association stated in December 1993:

It should be noted that the IBA is virulently anti-Major League Baseball and this tradition basically stems from the fact that for many, many years Major League scouts raped and pillaged the smaller Latin American countries over many decades to the point whereby a lot of the amateur organisations in Latin America have an enormous hatred for the professional league.¹⁷

While Latin American baseball undoubtedly regards Major League Baseball as but yet another example of 'gringoism', the ABL (and ABF) has developed a more pragmatic and co-operative relationship with the North Americans. At the end of the 1980s Major League Baseball International Partners was formed to further the global development of Major League baseball by obtaining overseas television audiences and the purchase of Major League products such as equipment, caps, T-shirts and baseball cards.¹⁸ Like Spalding over 100 years ago it has sought to promote baseball in foreign lands to enhance the sale of its

wares. American football and basketball have also embarked on global strategies to promote the sale of their respective products.¹⁹

Beginning with the 1990/91 season Major League Baseball International Partners has been active in providing organisational, logistic and financial support to both the ABL and individual clubs. Representatives work in the offices of the League providing administrative expertise and help. Every Australian club is affiliated to a major League club (see Table I). Major League clubs provide their Australian affiliates with coaches, four A League players²⁰ (a maximum of two pitchers) plus financial and other support. In the case of the New York Yankees other support provided to the Canberra Bushrangers includes a medical officer and container loads of medical and playing equipment.²¹ The attraction of Australia for Major League clubs is that it provides a safe environment (certainly safer than Latin America) to groom young (American) players. Australia also provides a new venue for talent scouts. According to Peter Carton, Major League Baseball International Partners' Australian Director' all American teams, all general managers, and all minor league directors, realise that [Australia] has the ability to produce tremendous baseball athletes ... Australia [is] a key international market for baseball talent'.²²

Table I
Links Between Australian and
Major League Baseball Clubs

<i>Australian Club</i>	<i>Major League Baseball Club</i>
Adelaide Giants	Los Angeles Dodgers
Brisbane Bandits	Milwaukee Brewers
Canberra Bushrangers	New York Yankees
East Coast Cougars	California Angels
Hunter Eagles	Montreal Expos
Melbourne Monarchs	New York Mets
Perth Heat	Baltimore Orioles
Sydney Blues	Toronto Blue Jays
Waverley Reds	Atlanta Braves

Source: 1994/95 *Australian Baseball League Media Guide*, p. 46.

In recent years an increasing number of Australian players have tried out with Major League clubs and/or have played Minor League baseball. The *1994/95 Australian Baseball League Media Guide* lists sixty-seven players, since 1978, who have had stints in America,²³ with an additional four playing in the Japanese Industrial League. At the end of 1993 the Atlanta Braves paid sixteen year old shortstop Glen Williams a signing on fee of \$US890 000.²⁴ Of the 218 (non-American based) players currently in the league thirty-six, or 16.5 per cent, have been recruited by Major League clubs. Of these four (Dave Nilsson, Graeme Lloyd, Mark Ettles and Mark Hutton) have played Major League ball, two AAA, eighteen A and twelve in the Rookies. In addition, two other players have played in America but not in the ABL—Craig Shipley in the majors and a second player in the Rookie leagues.²⁵ The presence of Australian players in America is used as a promotion tool and serves as an indicator of the progress and increasing competitiveness of Australian baseball.

Australian baseball believes its future success will be enhanced by the inclusion of baseball at the Olympics; a view which has gained increasing ascendancy since Sydney was awarded the 2000 games. Australia did not qualify for a position at Barcelona losing a qualifier in a fourteen innings' game to eventual silver medallists, Chinese Taipei.²⁶

Australian baseball has found itself caught in a contradictory relationship between the amateur ideal of the International Baseball Association and the professionalism of Major League Baseball. John Ostermeyer has stated that:

Fundamentally the [player] rules are flawed because as amateur sporting officials we encourage all our players of course to achieve the highest possible standard and to play to [the] maximum of their potential. This by definition means that we are encouraging these players to turn professional as only at the professional level does a player reach his full potential, as professional baseball is the highest level of baseball around the world. Hence the rules themselves are totally contradictory.²⁷

Baseball was not a success at the Barcelona Olympics, being described as 'an unmitigated disaster'.²⁸ Despite the presence of many of the world's best amateur players the quality of play was regarded as mediocre with games lasting up to four hours. More significantly, games attracted limited television exposure with only one game shown in the USA.²⁹ In a letter to the International Baseball Association in August 1992 Juan

Antonio Samaranch, President of the IOC stated that 'the aim at the IOC is to have the best players participating in the Games and that for us there is very little difference between the professional player and a state-sponsored player'.³⁰ In this way the marketability of the Olympics to television will be enhanced.

The embracing of professionalism by the Olympic movement has resulted in attempts by groups within the International Baseball Association to jettison amateurism. Those who desire change fear that if baseball does not rid itself of the amateur ideal it will lose its Olympic status. This in turn will result in the loss of development grants from the IOC, as well as governments in the provision of stadiums and other infra-structure support. For 1994/95 the Australian Sports Commission allocated \$1.449 million (\$1.189 million for elite and \$260 000 for other) to baseball—a 69.1 per cent increase on the previous year.³¹ In addition, \$9.8 million has been apparently earmarked to build a baseball stadium for Sydney 2000.³²

The ABF has been a prime mover in seeking to jettison the International Baseball Association's amateur rules. At a meeting in Switzerland in mid 1994 an attempt to introduce professionalism fell three votes short of the two-thirds majority required by the International Baseball Association's Constitution. It is believed and hoped that at a subsequent meeting in 1995 professionalism will be embraced, thereby enhancing the attractiveness of baseball to the International Olympic Committee.³³

The Australian Baseball League: Its Structure, Operation and Finances

The ABL is governed by five documents. The first two are a 'Joint Venture' and 'Licence Agreement' whereby the ABL grants the League a ten year licence, with an option for ten years, to operate a national club competition. The next two are the league's 'Articles of Association' and 'Shareholders Licence Agreement' which set out commercial and other arrangements between clubs and the League. The fifth is the League's rules which determine playing conditions, administrative arrangements, player and salary cap rules.

The affairs of the League are controlled by a Board of Directors which comprises a Chairman, with only a casting vote, elected by other members of the Board, a representative of the ABF and each of the clubs. The League's General Manager attends board meetings as secretary.

According to Upton 'the over-riding concept of the League was to vest control in the Clubs and thereby obviate the need for a strong central administration'.³⁴ It appears, however, that there are moves afoot to establish a more independent board as employed in the Australian Football and New South Wales Rugby Leagues respectively, or the American Office of the Commissioner in Major League Baseball.³⁵ The share capital of the league is divided with the ABF receiving 16 per cent, and clubs an equal share of the remainder.

When the League began in 1989/90 it comprised an eight team competition with two clubs in New South Wales (or rather Sydney), Victoria (or Melbourne) and Queensland (Brisbane and the Gold Coast), and single clubs in South Australia (Adelaide) and Western Australia (Perth). Since then, there have been some changes to the League's structure. At the end of the first season the Sydney Metro's franchise collapsed and the Melbourne Monarchs were expelled³⁶ from the League. They were replaced by the Sydney Wave and Melbourne Bushrangers respectively. Sydney has proved to be a difficult market in which to sustain two teams³⁷—the Wave folded at the end of the 1991/92 season enabling the re-entry of the Monarchs under different owners. In 1993/94 the Bushrangers moved to Canberra and a new club joined the league in 1994/95 in the form of the Newcastle based Hunter Eagles. It has been mooted that the league could progressively expand to twelve or fourteen clubs with new franchises being established in Sydney, Wollongong, Tasmania, Alice Springs and Northern Queensland.³⁸

Franchises are an asset which can be bought and sold. While the League is only in its sixth season, the value of franchises has increased dramatically. Licence fees were initially set at \$60 000. In 1990 the Sydney Wave bought into the League for \$75 000. One of the owners was James Donaldson, a seven foot two inch (218 cm) centre with the Dallas Mavericks of the North American National Basketball Association.³⁹ In August 1990 the League's then General Manager George Anderson estimated that the value of franchises had increased to \$120 000.⁴⁰

In 1991 a new group of owners took over the Parramatta Patriots for \$200 000, renaming the franchise the Sydney Blues.⁴¹ At the end of 1993 it was estimated that the value of club licences ranged between \$500 000 and \$1 million. The owner of the Perth Heat apparently rejected a \$1.1 million offer.⁴² With the sale of a 20 per cent share at the end of 1994 the Monarchs have an estimated value of \$750 000.⁴³ At the end of 1994 the Sydney Blues have an estimated value of \$1.1 million.⁴⁴

The League—as distinct from member clubs—derives the bulk of its income from sponsorship and merchandising. The major sponsor throughout most of its history has been Pepsi Cola which has paid \$500 000 a year for naming rights. New sponsors for 1994/95 are Qantas, the Japanese company SSK, which supplies official balls used at games, Eastern Sports and the Australian Defence Force.⁴⁵ Merchandising rights from the sale of caps, T-shirts, baseball cards and related products also generate income for the League. It may not be unreasonable to roughly estimate the League's annual income at between \$1 million and \$2 million.

Baseball has been on something of a television merry-go-round having been shown on Channels Two, Nine and currently Ten. Teams in Perth, Adelaide and Queensland have been shown on local stations. The League's contract with Channel Ten expires at the end of the 1994/95 season. It is hopeful of securing a new lucrative contract, whether it be free to air or possibly cable or pay. It is also anticipating significant increases in revenue from sponsorship and merchandising. Stefan Kamasz stated that baseball's 'merchandising program is ... gaining momentum and for [the 1994/95] season we are guaranteed to generate royalties which will more than double the total generated during the past three years ... [and] we are looking to double our current sponsorship levels within the next 18 months'.⁴⁶ He anticipated that in the next five years' income from television rights, sponsorship and licensing and merchandising should treble, if not quadruple.⁴⁷

In the league's inaugural season all clubs ran at a loss. Establishment costs were approximately \$500 000 per club,⁴⁸ with clubs deriving relatively small amounts of income. Gate receipts ranged from \$40 000 to \$90 000 per club (with prices set at approximately \$5 for adults and \$1 for children), sponsorships from \$60 000 to \$100 000 and income from other sources—life memberships, merchandise, publications, concessions, etc.—approximately \$70 000 per club.⁴⁹ The Parramatta Patriots, owned by the (amateur) Auburn Baseball Club lost \$298 000. The Melbourne Monarchs and Sydney Metros both incurred debts more than \$150 000.⁵⁰ It was hoped that clubs would start to break even in the third season.

For the 1990/91 season it was estimated that the operating cost of clubs ranged from \$200 000 to \$400 000. They included a pooling of travel costs which were \$47 000;⁵¹ team salary caps, \$42 000 (see below); \$25 000, road costs; \$14 000 to \$50 000, ground hire; \$15 000, equipment; and 'an arm and a leg' for promotion and marketing.⁵² The League's new

entrant, the last placed Melbourne Bushrangers lost an estimated \$150 000 during the 1990/91 season.⁵³

In February 1992 claims were made that clubs were either incurring small losses (of about \$20 000) or returning a profit. This was partly contradicted by a report at the end of the 1993/94 season that only Perth Heat, and possibly Waverley Reds and Melbourne Monarchs were operating in the black⁵⁴—though as will be shortly demonstrated the Sydney Blues also made a modest surplus. These accounts of the financial status of clubs do not appear to have taken into account the increasing value of franchises.

For the 1993/94 season the estimated total revenue of clubs—not the League— was approximately \$3 million compared to approximate total costs of \$3.5 million.⁵⁵ Most of the shortfall was probably associated with the establishment costs involved with the movement of the Bushrangers from Melbourne to Canberra, incurring a loss of \$350 000.⁵⁶ Presumably the Hunter Eagles will incur ‘high’ losses in 1994/95. There are substantial differences in the revenue of clubs. During 1993/94 one club received four times the revenue of another club. There are also differences in sources of income. One club derived approximately 65 per cent of its income from gate receipts, 20 per cent from sponsorship and 15 per cent from other sources. A second club received 25 per cent through the gate, 40 per cent from sponsorship and 35 per cent from other sources.⁵⁷

An idea of the changing financial position of clubs may be attained by examining the Sydney Blues. In 1991/92 it operated on a budget of \$280 000, incurring a loss of something less than \$80 000. In 1992/93 two events occurred which changed the Blues’ fortunes. Sydney Wave folded and the Blues moved from Oriole Park to Parramatta Stadium. Average attendances jumped from 1727 to 4311, and in the following season to 5487 (see Table II). During 1993/94 gate receipts were \$350 000 and the Blues achieved a \$20 000 surplus, plus substantial increases in the value of their franchise. The 1994/95 budget has been set at \$600 000 with another small surplus anticipated. It is expected that revenue will increase to between \$2 and \$3 million in five years.⁵⁸

Table II indicates average attendance at various venues from 1989/90 to 1993/94. During the first two seasons clubs played a forty-two game schedule, increasing to forty-eight for the following two seasons, and fifty-six in 1993/94. With the inclusion of Hunter Eagles in 1994/95

the schedule was further increased to sixty-four games. Games rained out are made up only if they are likely to have an impact on teams qualifying for play-offs. In 1989/90, for example 159 of the scheduled 168 games were played. The data presented here needs to be treated with a degree of caution. The League has developed a habit of playing seven innings' double-headers, normally on Friday nights and weekends to minimise travel and accommodation costs. During 1993/94 only four single nine innings' games were scheduled—local derbies between Brisbane Bandits and East Coast Cougars. Twenty such games are scheduled for 1994/95. It is not clear if the averages presented in Table II are for 'games played' or the 'date on which games were played'. The League's records are such that it is difficult to determine total attendance for 1991/92. On the assumption that during 1991/92 clubs normally played one nine and two seven innings' double-headers per series, plus an allowance for attendance at the championship series, the figure provided is a rough estimate by the author.

Table II
Average Attendance at Australian Baseball League Venues 1989/90 to 1993/94

Team	Venue	1989/90	1990/91	1991/92	1992/93	1993/94
Adelaide Giants	Norwood Oval	3700	4500	4703	3893	4461
Brisbane Bandits	Lang Park Showgrounds	1200	1600	2734	3971	3514
Canberra Bushrangers	Altona Stadium Bruce Stadium		950	1384	907	1623
East Coast Cougars	Carrara Stadium Palm Meadows	800	1350	1563	1612	1117
Melbourne Monarchs	Altona Stadium	2500			1697	1871
Perth Heat	Parry Field	3500	3900	4875	4247	5225
Sydney Blues	Oriole Park Parramatta Stadium	1200	1550	1727	4311	5487
Sydney Wave	Sydney Football Stadium Parramatta Stadium Belmore Oval	800	2250	1210		
Waverley Reds	Waverley Park	4900	3500	4824	3691	2699
	Average	2325	2450	2878	3041	3491
	Total	376 650	411 600	392 321*	401 986	412 022

Source: *1994/95 Australian Baseball League Media Guide*, p. 46

*Estimate by author

The table shows that total attendances at games has increased from 376 650 in 1989/90 to 412 022 in 1993/94—an increase of 9.4 per cent. In the same period the number of scheduled games have increased from 168 to 224—an increase of 33.3 per cent. Average attendances have grown from 2325 to 3491, through the problem with double headers should again be noted. These figures compare favourably with attendances at Minor League games in North America. The ABL would sit somewhere between an AAA and AA Minor League.⁵⁹ Table II reveals a degree of disparity in the attendance of clubs. Perth Heat, Adelaide Giants, Waverley Reds (except for 1993/94), Brisbane Bandits (since moving to the Showgrounds) and Sydney Blues (after moving to Parramatta Stadium) have experienced relatively high, if not steady increase in attendance. On the other hand, Canberra Bushrangers, East Coast Cougars and Melbourne Monarchs have struggled to attract crowds.

Table III provides information on the performance of clubs during the first five years of the League. Leagues in a variety of team sports claim they strive for competitive balance to provide a more interesting product to enhance income growth and league stability. The ABL may be too young to ascertain whether it has yet achieved such balance. For example, in determining clubs' average places on the ladder (excluding play-offs) it would be desirable if there were as many years or observations as there were clubs in the League.⁶⁰ Moreover, not all clubs have been in the League the same period of time.

Table III
Performance of ABL Clubs 1989/90 to 1993/94

Club	Years in League	Average Place	Percentages of Games Won	Times in Finals Play-off	Champion
Adelaide Giants	5	4.60	.504	Times	0
Brisbane Bandits	5	5.20	.496	1	1
Canberra Bushrangers	4	7.25	.319	0	0
East Coast Cougars	5	4.80	.493	2	1
Melbourne Monarchs	3	3.00	.570	2	1
Perth Heat	5	2.00	.651	3	1
Sydney Blues	5	4.00	.496	1	0
Sydney Wave *	3	7.00	.288	0	0
Waverley Reds	5	4.80	.576	1	1

Source: *1994/95 Australian Baseball League Media Guide*, pp. 63-5.

* No longer in the League.

Information is provided in the table on the number of years each club has spent in the League, its average place on the final League ladder (excluding play-offs), percentage of games won, times it has appeared in a finals' play-off and number of championships. In an eight team competition if there is strict equality of competition each club would have an average position of 4.50. Five clubs have achieved average positions close to that figure—Adelaide Giants, Brisbane Bandits, East Coast Cougars, Sydney Blues and Waverley Reds. There are indications, however, of competitive imbalance and the emergence of a possible dynasty in the form of Perth Heat. It and Melbourne Monarchs (which has only been in the League three seasons) have achieved relatively low average positions, while Canberra Bushrangers seem to be perpetual wooden spooners. Data concerning percentage of games won tends (unsurprisingly) to confirm the above trends. Perth Heat and Waverley Reds are the best performing teams, followed by Melbourne Monarchs. Other than for the now defunct Sydney Wave, Bushrangers have achieved the lowest percentage of games won. Five separate teams have won the championship, with Perth Heat reaching the final's play-off three times.

The Labour Market: Controlling Players

Club owners and League organisers in all team sports have invariably instituted, at and for their own convenience, a set of labour market rules which place severe restrictions on the economic rights and income earning potential of players.⁶¹ The ABL is no exception to this iron law of team sports. Player employment is regulated by the League's standard playing contract, player and salary cap rules.⁶²

The standard player contract contains clauses which require players to waive non-contractual claims against clubs, while clubs can seek injunctive relief against players who are denied the 'right' to defend themselves. The relevant clauses read:

17 (d) Waiver of Non contractual Claims

The Player represents that he is a sportsman interested in promoting the sport of baseball acknowledges that the restrictions placed upon his activities by the Agreement are necessary for the betterment and future of the sport. The Player accordingly waives to the extent that law allows any claim, other than for breach of contract by the Team which he might have arising, directly or indirectly, from the application or interpretation of this agreement, including

claims under the Trade Practices Act, at any time during the term of this Agreement or in the future.

14 *Injunctive Relief*

The Player represents and agrees that he has extraordinary and unique ability as a baseball player that the services rendered by him hereunder cannot be replaced or the loss thereof adequately compensated by money damages and that any breach of this Agreement by the Player shall cause irreparable injury to the Team, its successors and assigns. It is therefore agreed that in the event it is alleged by the Team that the Player is playing, attempting to play, threatening to play or negotiating to play in any other baseball competition or with any other team or organisation of any kind without the prior written consent of the Team, the Team shall have the right to obtain from any court or arbitrator having jurisdiction such equitable relief as may be appropriate, including a decree enjoining the Player from any further such breach of this Agreement during its term. In any action brought to obtain such relief, the Player waives his right to assert any counterclaim or other setoff in such action.

While the phrase ‘to the extent that the law allows’ reduces the egregious nature of the denial of common law and other legal rights to players, it is unlikely that the courts would uphold clause 17(d), or support the denial of natural justice and a player waiving his right to contest a claim for injunctive relief under clause 14. In the *Eastham* case, where English soccer’s retain and transfer rules⁶³ were found to be an unreasonable restraint of trade, Mr Justice Wilberforce stated:

The system is an employers system ... where it is clear that for the purpose of negotiation the employers are vastly more strongly organised than the employees. No doubt the employers ... consider the system a good system, but this does not prevent the court from considering whether it goes further than is reasonably necessary to protect their legitimate interests.⁶⁴

In 1909 English soccer was wracked by a major dispute/lock out when the Football Association unsuccessfully sought to deny the right of the Association Football Player’s Union to pursue legal claims on behalf of members. In an initial riposte union secretary Herbert Broomfield said that the union executive ‘are not convinced that they are expected to

regard seriously the opinion that a ... player forfeits a common legal right on entering into a professional engagement with a club'.⁶⁵

The ABL operates a maximum roster of thirty players per club. With some exceptions the club with which a player can seek employment is determined by the zone, or rather state, in which he resides. Each club is allowed four A Minor League (a maximum of two pitchers), invariably young players from its Major League affiliate. Such a player can return to 'his' Australian club in subsequent seasons irrespective of whether, in the intervening period, he improves his level of play in North America. Clubs are allowed to have up to five junior (under nineteen) players on their roster. Clubs are required to determine a series roster of twenty players when playing against another club.

For the 1994/95 season clubs had team rosters ranging from a low of twenty-three (East Coast Cougars) to a high of thirty (Canberra Bushrangers, Perth Heat and Waverley Reds), with an average of slightly less than twenty-nine. In the seasons 1989/90 to 1993/94 eighty-seven of the 370 batters who have played in the league (23.5 per cent), and seventy-five of 269 pitchers (27.9 per cent) were non-national players. In terms of actual play non-nationals were responsible for 19.8 per cent of times at bat, and 32.3 per cent of innings pitched. The overwhelming majority of non-national players have played in the league for only one season. Of the eighty-seven batters, seventy-eight (89.7 per cent) have played one season, the other nine two seasons; and sixty-nine of the seventy-five pitchers (92.0 per cent) one season, the other six two seasons.⁶⁶ Once a player signs with a club he is subject to a one-way one year option under clause 16 of the standard player contract. The clause states:

The Team has the option to renew this Agreement for one additional year. The Player shall receive the most favourable terms that were in effect at any time during the term of this Agreement. The Team may exercise its renewal option at any time between the termination date of this contract ... and the following 15 March. Such option may be exercised by notifying the Player in writing of the Term's decision. In the event the Team exercises its option, the terms of this Agreement shall remain in full force and effect save for this option to renew.

A similar option clause, as it was alternatively known, was a major feature of Major League Baseball from 1879 to 1976. It enabled clubs to have a perpetual 'ownership' right over the employment of players. Its

reign ended when private arbitrator Peter Seitz ruled that players Andy Messersmith and Dave McNally, who decided to play out their option year, were free agents.⁶⁷

An option or reserve clause has been tested in the Australian courts in a case involving Gary Buckenara and the Hawthorn Football Club, of the then VFL. Buckenara was a Perth based player who had crossed the continent to play with Hawthorn. In 1984 Hawthorn offered a new two year contract, plus an option for a further two years which could be exercised at Hawthorn's discretion. When the Perth based West Coast Eagles entered the league at the end of 1986 Buckenara sought to escape his contractual (option) obligations and return to Perth. Mr Justice Crockett of the Victorian Supreme Court ruled that Buckenara's proposed course of action amounted to a breach of contract and restrained him from playing with any other club in the VFL during the life of his contract.⁶⁸ Buckenara saw out his playing career with Hawthorn.

While the option clause may have been widely used at Hawthorn, it was not part of a standard playing contract. Moreover, the Victorian/Australian Football League Players' Association has sought to ensure that the option clause be excluded from standard player contracts. The 1994/95 collective bargaining agreement between the League and the Players' Association only allows a one year option to be included in the contracts of players moving interstate and first year players, both on one year contracts, on terms at 110 per cent of payment specified in the expired contract.⁶⁹

Players, who are unable to agree on terms with the club they played with in the previous season and/or the said club has not exercised the option, can still be prevented from playing with a new club, even one with which they have signed a contract. Under clause 10 of the ABL's player rules a previous club can stop the movement of a player to a new club by exercising a right of first refusal by matching the offer of the player's erstwhile new club. The right of first refusal is a feature of collective bargaining agreements in both North American football and basketball.⁷⁰ Australian basketball also operates a right of first refusal.

The realisation that the previous club of a player can forestall the player's movement to a 'new' club by exercising a right of first refusal may act as a disincentive for a 'new' club to make offers to apparently available players. It is conceivable that a player's services which are retained by this technique could be sold back to the 'new' club which had 'signed' the player for a transfer fee. Even though the league has

eschewed the use of transfer fees for non-contract players, in distinction from players on contract,⁷¹ 'new' clubs would have a further disincentive to bid for so-called non-contract players. Non-contract players can easily be transformed into 'contract' players by the simple device of clubs exercising a right of first refusal.

Under clause 11 of the standard player contract the League's General Manager is empowered to release a player from his contract 'upon the showing of special circumstances'. In addition, clubs can be required to release a player on contract if the player 'can demonstrate that he has been personally transferred from the State by his main [non-baseball] employer'. A small number of players have been able to use changes in educational and employment circumstances of themselves, or spouses, to join new clubs.

Clause 15 of the standard player contract grants clubs the right to assign players' contracts 'to any ABL Team located in the State in which the player resides or to the ABL'. Similarly, if a franchise is taken over by the League it has power to assign players to any team located in the State in which they reside. The clause goes on to state 'the player hereby expressly agrees that this Agreement is not personal and he hereby irrevocably consents to any assignment and will perform and observe all obligations imposed on him hereunder as if the assignee were a party to this Agreement'. This provision enabling the League and clubs to assign players does not have an equivalent in other Australian team sports, though it does bear a resemblance to a transfer system and drafting.⁷² Major League Baseball clubs have traditionally assigned players to different parts of their farm systems.⁷³

The standard player contract seeks to insulate clubs from vicarious liability associated with misdemeanours of players on the field. Part of Clause 8 states the club shall not:

in any circumstances whatsoever be under any liability whatsoever to the Player for any loss, damage or injury of whatsoever kind arising directly or indirectly from any act, neglect or default (whether negligent or otherwise) on the part of the Team or such servant or agent while acting in the course of or in connection with his employment or provision of services to or for the Team or to or for the Player.

It is clear, however, that in light of a decision by the New South Wales Court of Appeal that this clause would be found to be null and void. The decision found the Canterbury Bankstown Rugby League Club

vicariously liable for damages associated with Mark Bugden's head high tackle on Cronulla Sutherland player Steve Rogers (the coach had instructed players to 'stop' Rogers).⁷⁴

Clause 6(b) of the standard player contact states that 'the Player agrees to use his best efforts to make himself available for Road Trips during the season and agrees to take annual leave and up to one week's unpaid leave from his main employer to enable him to be available'. Could a lawyer interpret this as inducing a player to breach his contract with his primary employer and/or constituting a secondary boycott? Presumably a defence could be mounted behind the words 'uses his best efforts'.

The standard player contract also requires a player to 'use his best efforts to make himself available to act as an instructor or coach at clinics or camps organised and run by the Team, provided the Team gives the Player adequate and reasonable notice of his requested participation'. Clinics can be an extra source of income for both players and clubs. For example, the Sydney Blue's flyer for 1994/95 advertises four two-day clinics at \$65 per clinic. The Blues expect to generate \$78 000, or approximately 15 per cent of their income from clinics. Players receive \$50 a day, with clinics lasting from 9 am to 3 pm.⁷⁵ Most clubs also employ a few players as development officers or in the office.

Clause 9 of the contract requires a player 'at his own expense [to] obtain the highest level of private hospital and medical cover, together with personal accident cover sufficient for his needs'. Under the International Baseball Association's amateur code clubs are empowered to pay the insurance costs of players (see above). Australian team sports have traditionally required players to pay their own hospital and medical insurance costs.⁷⁶ Whether clubs or players should pay hospital and medical insurance has been a source of tension between the rugby league branch of the Media Alliance and the New South Wales Rugby League in negotiations over an award during 1994.⁷⁷ If we can assume that the length of the season is six months (with an allowance for pre-season training), that clubs pay on behalf of players an annual contribution in a lump sum (thereby reaping discounts), the cost of the highest medical and hospital cover for Medibank Private in 1994 was \$464 (for six months).⁷⁸ This figure would be deducted by clubs from their contractual payments to players.

To the extent that contractual disputes emerge the player rules stipulate the use of a League determined Appeals Board. Those with a knowledge of Major League Baseball's traditions may be interested to know that under clause 11 of the League's game rules that 'No Manager, Coach, Player or any other official of a Team shall smoke, clip or chew tobacco products or consume alcohol while in uniform or acting in an official capacity'. One wonders if this rule is ignored in functions with sponsors!

The League operates a salary cap. Salary capping was first introduced in American basketball in 1983 via collective bargaining between the National Basketball Association and the National Basketball Players' Association. The agreement was designed to combine the ability of players to move between clubs at the expiration of their contracts with the economic viability of clubs. Under the agreement players are entitled to receive 53 per cent of gross income earned by clubs, with exemptions, or extra income over the cap, for one of the club's players who has played out his contract and become a free agent.⁷⁹ There is little, or no, case law on salary caps in North America. This situation will undoubtedly change following the premature end of the 1994 baseball season over a dispute between Major League Baseball and players resulting from the former's desire to introduce a 50 per cent salary cap.⁸⁰ Both sides have accused each other of bargaining in 'bad faith' in filing claims before the National Labor Relations Board. Salary caps have become relatively popular in Australia being used in Australian Football, Rugby League and basketball as well as baseball.

In baseball the salary cap was initially set at \$42 000 per club. It remained at that level until the 1994/95 season when it was increased to \$45 000. For the 1995/96 and 1996/97 seasons it will be further increased to \$47 500 and \$50 000 respectively. Certain categories of personnel are exempt from a club's salary cap. Players provided by the Australian club's Major League affiliate are exempt. Such players receive \$US1000 per month from their Major League club, with Australian clubs picking up their accommodation expenses plus the provision of cars. Non-playing coaches and team staff are also exempt. Before the 1994/95 season two Australian player-coaches were exempted. Two additional exemptions were added for the 1994/95 season—one field manager and one Australian born Major League player per club.⁸¹ On the assumption that two Australian player-coaches receive \$3000 per season the following

discussion will be conducted on the basis that Australian based players—that is, excluding Australian born major leaguers and Major League affiliated players were subjected to a team salary cap of \$42 000 from 1989/90 to 1994/95.

Players can also receive expenses for road trips and travel which are apparently not included in the calculation of team salary caps. It is not clear that all clubs have paid players to the limits of their cap and/or that expenses are not substituted for salary cap payments. In 1990/01 the Parramatta Patriots seem to have not paid players⁸²—in 1989/90 they recorded a substantial loss. On the other hand Perth Heat paid players a \$10 000 bonus for winning the 1991/92 championship.⁸³ Players do not receive superannuation payments, though some clubs operate provident funds and provide assistance for sick players and educational expenses.

When the League started, with a forty-two game season and series rosters of twenty players it was assumed that players would share \$1000 a game. Since that time, distribution of payments to players has changed. For example, Sydney Blues pays its top six Australian players \$4000 a season and its five juniors \$400.⁸⁴ 'Star' players earn an average of \$5000 per season, with one or two 'super stars' earning \$10 000.⁸⁵ The rumour mill has it that at least three clubs cheat on their caps with the highest income paid to a few select players believed to be between \$15 000 and \$20 000.

Putting to one side changes in exemptions the salary cap has virtually remained constant for six seasons. If an allowance was made for changes in the Consumer Price Index in this period—of 19.2 per cent—the cap should have increased to \$50 064. If the cap had increased by the same movement in average weekly earnings for all persons of 21.4 per cent it would now be equal to \$51 198.⁸⁶

The number of games scheduled each season has increased from forty-two to sixty-four. To the extent that the initial \$1000 a game 'rule' is relevant the cap should have been increased to \$64 000. Such a figure adjusted for changes in prices and average weekly earnings would translate into caps of \$76 288 and \$78 018 respectively.

If clubs have an average of twenty-four based Australian players—twenty-nine minus four Americans per team minus a handful of Australian Major Leaguers (see above)—players on average earn \$1750 per season. To the extent reasonable assumptions can be made concerning how many hours players devote to playing and training it is possible to calculate on average hourly rate of pay. In the calculations that follow no

allowance has been made for time spent travelling, away on road trips⁸⁷ (other than the game) and in promotions.

It has been assumed that pre-season training begins seven weeks before the season and players train for eight hours a week. The season (excluding play-offs) lasts for sixteen weeks. During the season players train six hours a week. It has been assumed that a home seven innings' double header, including pre-match hit-ups (and showering after games) last six hours, and a nine innings' game four hours. An extra two hours has been added for on-the-road games (away sides hit up first). On the basis of Sydney Blues' schedule for 1994/95 players spent 378 hours playing and training. This translates into an average wage of \$4.63 per hour.

Most players undertake individual or self training at the gym three times a week at approximately one and a half hours a session. The cost of such training can run to \$600 per year. In the past the players at several clubs bore the cost of such training themselves. It now appears that most clubs have arrangements with gyms to enable players to pursue such training. We will assume that players undertake individual training for twenty-three weeks of the year—seven weeks pre-session plus sixteen weeks regular season. In other words players devote an extra 103.5 hours a season to gym work which increases their work load to 481.5 hours. This translates into an average hourly rate at \$3.63.

In undertaking these calculations it may be appropriate to deduct monies that the standard player contract requires players to spend on medical and hospital insurance (the cost of accident cover is being ignored). No account will be taken of any extra monies that players may expend on medical costs, such as physiotherapy, once they have exceeded the limits allowed by their insurance. It was earlier estimated that per the 1994 Medibank Private rates the minimum insurance payment for six months was \$464. Players paying their own insurance costs reduce their average 'in the hand' income to \$1286. This translates into an average hourly rate of \$2.40 or \$2.67 depending on whether or not hours of individual training are included in the calculations. Note, these are average hourly rates. Given that most clubs have five or six (Australian) players who receive \$4000 to \$5000 a season the majority of players have hourly rates of pay lower than the amounts calculated here. These hourly rates are less than the minimum rates for youths advocated by the Federal Coalition in *Jobsback*, in the March 1993 Federal election.⁸⁸

It may also be possible to estimate the approximate share of baseball income received by Australian players—that is, excluding Americans and Australian Major Leaguers. For the 1993/94 season it has been assumed that all eight clubs spent to the maximum of their \$42 000 salary cap. No allowance has been made for the income players received from clinics, even though such income has been included in that of clubs. To counterbalance this no deductions have been made for the hospital and medical insurance costs incurred by players. The total earnings of players for 1993/94 are estimated to be \$336 000, with total income of clubs and the league \$4.5 million (see above). Players then received a 7.47 per cent share of baseball income. On the basis of nine teams having salary caps of \$50 000 each in 1996/97 and projected baseball income being equal to \$9 million (see above) the players' share will decline to 5.00 per cent.⁸⁹

These figures are similar to the share of income Australian cricketers received from Test cricket in the 1970s before the advent of World Series Cricket.⁹⁰ In 1988 it was estimated that VFL players received a 28 per cent share of the income they generated. By 1993 players at the (now) AFL received a 22.47 per cent share. And for the same year it was estimated that Rugby League players received a 33 per cent share.⁹¹ Major League Baseball's 1994 season was prematurely ended because owners were unable to convince players of the need to establish a 50 per cent salary cap!

Australian courts have consistently struck down labour market controls developed by sporting competitions which serve to act as a restraint of trade on players. In *Tutty* the High Court declared the New South Wales Rugby League's retain and transfer system to be a restraint of trade. It said:

The law treats unreasonable restraints as unenforceable because it is contrary to public welfare that a man should unreasonably be prevented from earning his living in whatever lawful way he chooses and that the public should unreasonably be deprived of the services of a man prepared to engage in employment.⁹²

In *Adamson II* when the Full Court of the Federal Court of Australia, on appeal, struck down the New South Wales Rugby League's internal draft,⁹³ Mr Justice Gummow stated that:

The principle on which the restraint of trade doctrine rests is that in the public interest the citizen should be free of any unreasonable restraint upon the exercise of his capacity to be gainfully employed or to engage in trade or commerce.⁹⁴

In that decision he also stated that ‘the restraint imposed upon the player is involuntary rather than voluntary’. He added that ‘the restraint ... strikes at the essential interest of each player in being free to play with the club of his choice’, and ‘public policy requires that when a man has by skill or by any other means obtained something which he wants to sell, he should be at liberty to sell it in the most advantageous way in the market’.⁹⁵

Also in *Adamson II* Mr Justice Wilcox noted that the ‘rules were made by the League, with the concurrence of its constituent clubs, and not by the players’. He also stated that ‘the right to choose between prospective employers is a fundamental element of a free society. It is the existence of the right which separates a free person from the serf’.⁹⁶ In *Hall* Mr Justice Murray of the Victorian Supreme Court struck down the VFL’s system of zoning because a player ‘is not permitted to choose, for whatever reason, the club with which he desires to be associated’.⁹⁷

The ABL’s standard player contract and other employment rules were developed by the League and its constituent clubs without any input from players. The various provisions contained in these rules have been imposed on players. On the basis of dicta laid down by Australian courts it is arguable that many of baseball’s employment rules would be declared to be an unreasonable restraint of trade.

In *Adamson II* Mr Justice Sheppard hinted that salary capping would not survive judicial scrutiny.⁹⁸ The League’s rules concerning zoning, assignment and the right of first refusal, particularly in the context of it being a potential back door way of resurrecting transfer fees linked to a so-called contract that a player never negotiated with an ‘owning’ club, may be declared null and void. Finally, despite *Buckenara* the courts may look somewhat askance at an option clause which is designed and operated solely for the benefit of clubs.

The Australian Baseball Players’ Association

When the players of team sports mix together socially after games, or on tours, their conversations will sometimes turn to issues associated with the terms and conditions of their employment. They will discuss such

things as pay and remuneration, injuries, medical benefits and insurance, standard player contracts and the various controls which their league and clubs have instituted to control and regulate their employment. During such conversations someone might suggest that they should form a union or players' association to improve their lot. From approximately 1991 intermittent discussions occurred amongst senior players of the ABL of the need to establish such an association.⁹⁹

In the summer of 1993/94 Sydney Blues utility player David Hynes took up a summer clerkship with the legal firm Corrs Chambers Westgarth—Hynes was studying law and industrial relations at Sydney University. Following discussions with fellow player shortstop Mark Shipley, Hynes spoke with Ronald Finley of Corrs for advice and help concerning the establishment of a players' association. Finley, a former grade player, prepared a paper canvassing various options—ranging from a company of guarantee, incorporating in each State, registering as a federal union to joining up with the Media, Entertainment and Arts Alliance.

At the end of the 1993/94 season Finley sent a letter to the League announcing the formation of a players' association. The letter, sent 'in the spirit of co-operation and support for the game in Australia', listed six issues of concern to players. Firstly, on the list was the salary cap—'It is the unanimous view of all of the players we have spoken to that the salary cap of \$42 000 per team is too low. This is the most pressing concern for all players and we would be grateful if this was discussed by the [League's] Board as a matter of urgency.' Other issues were health cover, insurance of players and their property, seven innings double headers, the condition of some playing fields and their implications for player safety and marketing and promotion.¹⁰⁰

The League did not formally respond to this letter. Apparently General Manager George Anderson telephoned Finley informing him that more information would be required concerning the ABPA before the League would be prepared to proceed with discussions.¹⁰¹ The League did, however, subsequently increase the salary cap to \$45 000 for 1994/95, plus an extra \$2500 for each of the following two seasons.

Before this letter was sent, Melbourne based players had approached the Victorian office of the Media Alliance concerning the formation of a players' association. The Media, Entertainment and Arts Alliance came into being in May 1992 as the result of an amalgamation

between Actors Equity of Australia, the Australian Journalists Association and the Australian Theatrical and Amusement Employees Association. The merger is part of a rationalisation program which has visited Australian unions since the late 1980s.¹⁰² At the beginning of 1993 the Rugby League Players' Union became an autonomous branch within the Media Alliance. In September 1993 a Professional Sports Branch was formed within the Media Alliance when the Australian Unity Soccer Players' Union became affiliated. The Alliance has also been recruiting coaching and administrative staff within the sports industry, and unsuccessful overtures have been made to the Australian Football League Players' Association and the National Basketball League Players' Association.

According to David Hynes there was widespread support amongst players at the end of 1993/94 for proceeding with the development of a players' association. During the off-season a handful of letters were exchanged between Corrs and the Alliance. On 30 July 1994 the *Sydney Morning Herald* published a page three article on the general topic of unions in sport and the role of the Media Alliance in organising players from a variety of sports. The Australian Broadcasting Corporation's radio show *Grandstand* followed this with a forum on unions in sport on 6 August 1994.

As a result of this media exposure Mark Shipley contacted Kimon Taliadoros, the Chief Executive of the Australian Unity Soccer Players' Union who works in the Sydney office of the Media Alliance. After discussion it was decided to hold an inaugural general meeting of players where, amongst other things, players would formally vote to join the Alliance.¹⁰³

On 11 October 1994 sixteen players, plus three representatives of the Media Alliance,¹⁰⁴ met to determine the future of the ABPA. The major business of the meeting was to formally bring into being the association, merge with the Media Alliance as an autonomous section within the Professional Sports Branch, elect a management committee and determine fees. Dave Nilsson, the starting catcher with the Milwaukee Brewers and Australia's highest profile player, was elected President because of his 'considerable status in the game ... great credibility, exposure and experience'. His pending purchase of a share of the Waverley Reds' franchise was debunked by Nilsson as a potential conflict of interest because 'his priority was certainly the welfare of players'.

David Hynes was appointed Chairman and Kimon Taliadoros Secretary. Concern was expressed that 'Mark Shipley would be preferable [as secretary] because of his rapport with the players and grasp of issues'. Shipley declined because of restrictions on his time, access to facilities adding that he would be in 'constant contact' with Taliadoros to monitor events. After 'a great deal of diverse and varied comment' the meeting settled on a \$25 joining fee and an annual subscription of \$50 for both 1994/95 and 1995/96.¹⁰⁵

The Association's Management Committee comprises, beside office bearers, a committee member plus a delegate from each club, though East Coast Cougars and Melbourne Monarchs have two delegates. As the time of writing Waverley Reds had not determined their representatives.¹⁰⁶ Excluding Secretary Taliadoros this translates into a twenty-two man executive, which constitutes approximately 10 per cent of Australian players in the League. By the standards of Australian unions, if not unions in general, this would represent a very high percentage of rank and file participation in decision making processes. Moreover, in terms of the League's short life members of the management committee are 'old salts'. Their average longevity in the League is 5.2 seasons, with eleven in their sixth season. Their average age as of 1 January 1995 is 29.5 years compared to a League average of approximately twenty-three years. Ten members of the executive are thirty years or older.¹⁰⁷

Two or three days after the 11 October meeting the League's Board of Directors met. Stefan Kamasz circulated a memo considering the establishment of an in-house players advisory committee. It would consist of player representatives from each club, plus a couple of club representative and one each from the League and ABF. Kamasz was fearful that an independent players' association would be potentially confrontational and would work against the best interests of baseball. Through a players' advisory committee, players would be able to express their concerns about baseball, and in turn the League would convey to players a more complete picture and problems associated with establishing a viable competition.¹⁰⁸

Major League Baseball used a players' advisory committee, or what it called a player representative system, to counter an attempt by players to form a players' association in 1946. It was from this body that the Major League Baseball Players Association was formed in 1954.¹⁰⁹

The Australian Cricket Board used a cricket sub-committee (representatives of players) in the late 1970s and early 1980s to successfully undermine the professional Cricketers' Association of Australia, a players' association formed during the days of World Series Cricket.¹¹⁰

Given the momentum already established for an *independent* organisation Kamasz's proposal fell by the wayside. David Hynes in discussions with League and club officials emphasised that he expected future relations to be conducted in a conciliatory and co-operative way, and that players were attracted to the Media Alliance because of the logistic support it could provide.¹¹¹

On 26 October 1994 the first meeting of the Management Committee was held through a telephone conference. Following his purchase of a share of the Waverley Reds Dave Nilsson tendered his resignation as President because of a conflict of interests and a need 'to maintain the genuine independence of [the] ABPA'. In doing so he expressed his support for the Association offering to assist in an advisory capacity. Perth Heat's Graeme Lloyd, a pitcher with the Milwaukee Brewers, was to be sounded out as a potential replacement. The meeting discussed matters associated with a membership drive and finances of the association. It also considered health insurance and health and safety issues, the standard player contract, salary cap, royalties from merchandising and promotional activities, marketing and promotion of individuals and the Association, playing conditions of grounds, concerns over affiliation with Major League clubs and pursuing a conciliatory and co-operative approach. It was decided to use 1994/95 to establish and consolidate the Association, to determine priorities and 'negotiate and implement [an] agreement in co-operation with [the] ABL' before the 1995/96 season. To publicise the formation of the Association it was agreed that letters would be sent to players, clubs and the League, and a press conference would be held.¹¹²

At the press conference held on 6 December 1994 Stefan Kamasz welcomed the creation of the players' body. He said the League would be happy to work with a players' association which acted responsibly, and was more than pleased to sit down and negotiate with it in seeking to further the League's development. He stressed the importance of a relationship based on unity, and that benefits should be shared between players and owners. Similar views were expressed by Bruce Portner, the Governing Director of Canberra Bushrangers. He said he was a big

supporter of the players' association and stressed the need for common sense and co-operation. He also stated that owners needed to look after their major asset-players, who needed improved benefits.¹¹³ Before the press conference Trevor Jarrett, Chairman of Sydney Blues said he was a supporter of the players' association, its development was long overdue, and this was a view shared by a majority of clubs. In stating this, however, he was worried that the Media Alliance, rather than players, would control its agenda. He hoped that in five year's time leading players would be earning \$30 000 a season.¹¹⁴

When competition commenced in 1989/90 players were prepared 'to do it tough' being swept along with the adventure of Australian baseball establishing a league of its own. In the League's first season players at the Sydney Wave travelled the length and breadth of Australia by bus, rather than be aeroplane, to keep down costs in a forlorn attempt to save the franchise. Players were promised good times if and when the League secured its financial base and found a niche for itself in the Australian sporting marketplace. Players, especially those who are the mainstay of the players' association, are aware that club and League revenues have increased, clubs are now beginning to operate in the black, and there have been dramatic increases in the value of franchises. They have received their full of promises concerning future benefits.

League and club officials expect players to play to the limits of their skill (see the quote from Ostermeyer above) in producing an exciting competition attractive to spectators, sponsors and the media, especially television. This is a goal also shared by players. Players train and play hard, often at personal cost to themselves in terms of income, family and other employment commitments.

Berry, Gould and Staudohar have described players as 'both machinery and product ... It is not just that athletes are part of the game ... they are the game'.¹¹⁵ They do not believe that clubs and the League have done, and are doing enough for them as producers of the product which is baseball. Top level sporting competitions demand healthy and fit players. Players believe that clubs have an obligation to look after the health and well-being of players, pay their hospital and medical insurance, and meet any other medical costs not covered by such insurance. Clubs should also provide players with healthy food at games, particularly double-headers, to enhance player performance. In addition, clubs have an obligation to provide baseball fields, rather than makeshift grounds,

to minimise potential injury problems. Objections have also been voiced against the quality of lighting at some grounds. Concern has also been expressed about the League not having a long term strategy to upgrade the standard and quality of ground.

Players also believe that if they are expected to play at the top of their ability they should be adequately compensated for foregone earnings, and time and energy they devote to baseball. Team salary caps of \$42 000 and \$45 000, represent an inadequate level of payment for players. Players should not be subjected to a one-sided standard player contract. Not only should they play a part in the determination of such a contract, but also enjoy the same rights as other employees in being able to obtain employment with anyone prepared to employ them. Players have not received any income from the sale of baseball cards, which are becoming increasingly popular in Australia. Objections have also been expressed against seven innings' games-big leaguers play nine innings' ball.

The experience of player associations in Australia has been somewhat desultory.¹¹⁶ Of the twenty-six attempts to form such associations before the emergence of the ABPA only four are still in existence. Putting to one side opposition they receive from their respective clubs and leagues there are five major internal organisational factors which have served to hamper their operation. Firstly, their members have a short playing life with only a small percentage lasting ten years or more, still playing in their thirties. The constant turnover of members poses problems in terms of continuity and in costs associated with educating new members to the rationale of and needs of the association. The average age of the management committee of the ABPA is 29.5. It may experience problems convincing American players who are on a one year sojourn in Australia to become members.

Secondly, given the size of leagues and club rosters the membership base of player associations is small. In addition, with the emergence of national leagues small pockets of players are dispersed across Australia, which adds to organisational and logistic problems. For the 1994/95 season the maximum number of members available to the baseball association was less than 260 distributed between eight different locations. Thirdly, players' associations have had almost ridiculously low membership subscriptions. It appears that at one stage baseballers were contemplating membership levels as low as \$20 per year. Fourthly,

small membership and low subscription levels translate into low incomes which reduces the ability of player associations to provide benefits for members or defend their interests and rights. Fifthly, because of their inability to generate enough income they have experienced problems in being able to employ staff who are able to devote all of their working time to the needs of players and the Association. Players have either performed these functions themselves on top of their commitment as players and to other employers or have relied on former players or good hearted individuals to work on their behalf in an honorary capacity. Once the initial enthusiasm of establishing an Association has passed, such persons have found themselves quickly frustrated in trying to attend to the needs of the Association in the context of playing, employment and family commitments.

If the ABPA had decided to go it alone it is likely that it would have suffered the same fate as other failed attempts to establish and maintain a players' association. While it will undoubtedly encounter unexpected problems by merging with the Media, Entertainment and Arts Alliance, it has circumvented many of the organisational and logistic problems which have beset other attempts at player organisation. The reason the League has adopted a more conciliatory and co-operative tone at the Association's press conference on 6 December 1994, in contrast to the letter it received from Ronald Finley earlier in the year, in all probability, is motivated by a realisation that the Media Alliance has resources to pursue the needs and interests of Australian baseballers.

Conclusions: Australian Baseball's Field of Dreams

The formation of the ABL represents a bold new venture for Australian baseball; an attempt to escape from underneath the shadow of cricket and establish itself as a highly competitive and commercially successful sport. When the League was formed two major reasons were given to players why baseball could only afford to pay them little more than out-of-pocket expenses. They were the linkage of Australian baseball's progress to participation at the Olympics and the associated need to fit in with the amateur code of the IOC and the International Baseball Association; and the parlous financial state of the embryonic league.

Circumstances have reduced, if not removed, the saliency of both these reasons. The IOC has put pressure on the International Baseball Association to drop its amateur code if baseball is to be admitted as a full

medal sport at future Olympics. It wants to ensure that the best athletes are available to enhance the attractiveness of the games to international television. If the International Baseball Association accedes to this request a major reason justifying low payments to Australian players will be removed. And if it does not Australian baseball would be precluded from going to the Olympics which, in turn, would obviate the need to maintain the amateur ideal. The ABF, the major shareholder, joint venturer and licensor of the League is a major force pushing within the International Baseball Association for an end to amateurism.

Despite initial problems the financial position of both clubs and the League has steadily improved. Clubs are beginning to trade in the black. Since the League's inception club and League revenues have more than trebled, and are expected to treble or quadruple in the next five years. In addition, the value of franchises has increased dramatically, and will undoubtedly further increase as the income and financial viability of clubs further improve. Increases in the value of franchises provide clubs with an asset upon which short term borrowings can be based if and when the need arises.

Players have received limited or small incomes from playing, and have been subjected to a one-sided labour market. Zoning, an option clause, rights of first refusal and assignment impinge on their employment rights. Players receive an approximate 7.47 per cent share of baseball income and earn an average hourly wage of between \$4.63 and \$2.67, with the majority of players receiving rates less than this. Australian baseballers wish to be afforded the income and employment rights which they regard as being commensurate with their status as high performance elite athletes. It is for this reason that they formed the ABPA. The decision to come under the umbrella of the Media, Entertainment and Arts Alliance is based on an instrumental assessment that it possesses the wherewithal to best help baseballers achieve their goals and objectives.

Two final points can be made. Firstly, if new clubs were admitted to the competition, as has been mooted, the League may encounter scheduling problems which in turn will impact on players. With increased teams the League, given an assumption on lengthening the season because of ground availability, would be forced to play mid-week. Mid-week games may also need to be played if a decision is made to wean Australia off seven innings' ball, or if the Australian east coast experiences

a substantially wet summer. Regular mid-week games would make it more difficult for players to hold down positions with their main (income generating) employers and would, in all probability, necessitate considerable increases in the income of players' clubs would wish to have on their rosters.

Secondly, baseball like a number of Australian sports receives funds from the public purse, funds which will presumably increase in the lead up to Sydney 2000. To the extent that public monies are expended it might seem incumbent that policy makes ensured that players, who after all are the sport, received fair and reasonable pay to compensate them for the time they devote to training and playing, and were afforded the same employment rights as other workers.

Notes

- 1 I would like to thank Kimon Taliadoros, David Hynes and Mark Shipley, Secretary, President and Committee Member of the ABPA, Ronald Finlay of Corrs Chambers Westgarth, Stefan Kamasz general manager of the ABL, George Anderson the former General Manager, John Ostermeyer Executive Director of the ABF, Trevor Jarrett Chairman of Sydney Blues, and Peter Carton director Australia of Major League Baseball International for providing me with information concerning Australian baseball and the ABPA. The author is alone responsible for omissions and errors of interpretation.
- 2 Interview, Mark Shipley, Sydney Blues shortstop and committee member, ABPA, 1 Nov. 1994.
- 3 For details concerning these earlier attempts see Braham Dabscheck, 'Unions and Sport: Australian Professional Players' Associations' Economic and Labour Relations Review, Dec. 1991, pp. 114-30; Braham Dabscheck, 'Rugby League and the Union Game', *Journal of Industrial Relations*, June 1993, pp. 242-71; Braham Dabscheck, 'Early Attempts at Forming Soccer Player Unions in Australia', *Sporting Traditions*, vol. 10, no. 2, May 1994, pp. 25-40; and Braham Dabscheck, 'Player Associations and Sports Unions in Australia', in Ralph C Wilcox, ed., *Sport in the Global Village*, Fitness Information Technology, Margantown, W Virginia, 1994, pp. 125-44.
- 4 For example it is not mentioned in Keith Dunstan, *Sports*, Cassell, North Melbourne, 1973, nor surveyed in Wray Vamplew and Brian Stoddart, eds, *Sport in Australia: A Social History*, CUP, Melbourne, 1994.
- 5 'History of Baseball in Australia', [n. d., probably 1990], unpub.
- 6 Malcolm Andrews, *The Encyclopedia of Australian Sports*, Golden Press, Sydney, 1979, p. 20; Jim Shepherd, *Winfield Book of Australian Sporting Records*, Rigby, Adelaide, 1981, p. 28; and *Ampol Australian Sporting Records*, Bantam, Sydney, 8th ed., 1988, p. 36.
- 7 Quoted in Peter Levine, A G Spalding and the Rise of Baseball: *The Promise of American Sport*, OUP, New York, 1985, p. 100.
- 8 For details concerning the history of Japanese baseball see Robert Obojski, *The Rise of Japanese Baseball Power*, Chilton, Radnor, Penn., 1975; and Robert Whiting, *You Gutta Have Wa*, Vintage, New York, 1990.
- 9 This historical information is derived from Bruce Mitchell, 'Baseball in Australia.

- Two Tours and the Beginnings of Baseball in Australia', *Sporting Traditions*, vol. 7, no. 1, Nov. 1990, pp. 2-24; Bruce Mitchell, 'A National Game Goes International: Baseball in Australia', *International Journal of the History of Sport*, Aug. 1992, pp. 288-301; and Bruce Mitchell, 'Baseball', in Wray Vamplew et al, eds, *Oxford Companion to Australian Sport*, 2nd ed., OUP, Melbourne, 1994, pp. 54-6.
- 10 Shepherd, *Winfield Book*, p. 29.
 - 11 Mitchell, 'Baseball', p. 55.
 - 12 It came into being in 1978 following a change in the name of the Australian Baseball Council originally formed in 1912.
 - 13 For further details see Randall G Upton, 'Australian Baseball League and the Melbourne Monarchs—expulsion', unpub. paper, The Law of Professional Team Sports Conference, University of Melbourne, 17-19 May 1991, pp. 10-14.
 - 14 'History of Baseball'.
 - 15 John C Ostermeyer, 'The World is no Longer Flat', unpub. address to Major League Baseball Players Association, Executive Board Meeting, Phoenix Arizona, 6-10 Dec., 1993, pp. 8 and 25.
 - 16 Constitution of the International Baseball Association, Sept. 1992.
 - 17 Ostermeyer, 'The World is no Longer Flat', p. 9. For an examination of the tensions between baseball in the Dominican Republic and Major League Baseball see Alan M Klein, *Sugarball: The American Game, the Dominican Dream*, Yale University Press, New Haven, 1991; and Alan M Klein, 'Trans-nationalism, Labour Migration and Latin American Baseball', in John Bale and Joseph Maguire, eds, *The Global Sports Arena: Athletic Talent Migration in an Interdependent World*, Frank Cass, London, 1994, pp. 183-205.
 - 18 Interview, Peter Carton, director Australia, Major League Baseball International Partners, 9 Nov. 1994.
 - 19 See Joseph Maguire, 'The Media-Sport Production Complex: The Case of American Football in Western European Societies', *European Journal of Communication*, vol. 6, 1991, pp. 315-35; and Joseph Maguire, 'American Labour Migrants, Globalization and the Making of English Basketball', in Bale and Maguire, *Global Sports Arena*, pp. 226-55.
 - 20 American baseball is organised in the following descending order/level of leagues: Major League, AAA, AA, A and Rookie. An A League player would be a rough equivalent of a fourth division player, to use soccer parlance.
 - 21 *Action Baseball*, Official ABL Season Souvenir Guide [1995], p. 62.
 - 22 *Action Baseball*, p. 19.
 - 23 Until recent times only one Australian had played in the Major League. Between 1884 and 1901 second baseman Joe Quinn played 1768 games with a batting average of .261. He also had stints as a manager in St. Louis in 1895 and Cleveland in 1899. See Joseph L Reichler, ed., *The Baseball Encyclopedia*, Macmillan, New York, 6th ed., 1985, pp. 645+1308.
 - 24 Australian, 11 Nov. 1993.
 - 25 *1994/95 Australian Baseball League Media Guide*, p. 56; Australian, 3 Nov. 1994.
 - 26 Mitchell, 'Baseball', p. 55.
 - 27 Ostermeyer, 'The World is no Longer Flat', p. 18.
 - 28 Ostermeyer, 'The World is no Longer Flat', p. 10,
 - 29 John C Ostermeyer, 'Olympic Baseball: Its Impact on the Game', unpub. address, Major League Baseball International Partners, Conference, Barcelona, Sept. 1993, p. 12.
 - 30 Ostermeyer, 'Olympic Baseball', p. 7.
 - 31 *Sport Report*, Confederation of Australian Sport, Spring 1994, p. 8.
 - 32 Interview, Stefan Kamasz, General Manager, ABL, 28 Oct. 1994; Interview, Trevor Jarrett, Chairman, Sydney Blues, 30 Nov. 1994.

- 33 Interview, John Ostermeyer, Executive Director, ABF, 8 Nov. 1994; Kamasz interview.
- 34 Upton, 'Australian Baseball League', p. 8.
- 35 Kamasz interview. For details concerning the Australian (Victorian) Football League adopting an independent (from clubs) board see Braham Dabscheck, 'Abolishing Transfer Fees: The Victorian Football League's New Employment Rules', *Sporting Traditions*, vol. 6, no. 1, Nov. 1989, pp. 63-4. For information concerning the role of Major League Baseball's Commissioner see Harold Seymour, *Baseball: The Golden Age*, OUP, New York, 1971, pp. 294-339; James B Dworkin, *Owners versus Players: Baseball and Collective Bargaining*, Auburn House, Boston, 1981, pp. 56-7; Robert C Berry and Glenn M Wong, *Law and Business of the Sports Industries*, vol. 1, Professional Sports Leagues Auburn House, Dover (Mass.), 1986, pp. 510-4; Paul D Staudohar, *The Sports Industry and Collective Bargaining*, ILR Press, Cornell University, 2nd ed., 1989, pp. 23-5; and Lee Lowenfish, *The Imperfect Diamond: A History of Baseball's Labor Wars*, rev. ed., DeCapo, New York, 1991, rev. ed., pp. 57-126. For a devastating critique of commissioner Bowie Kuhn see Marvin Miller, *A Whole Different Ball Game: The Sport and Business of Baseball*, Birch Lane Press, New York, 1991, pp. 85-130. Miller is a former long serving Executive Director of the Major League Baseball Players' Association.
- 36 For details of this see Upton, 'Australian Baseball League'.
- 37 Sydney has been a difficult market for a number of sports. For an explanation of why see Richard Cashman and Tom Hickie, 'The Divergent Sporting Cultures of Sydney and Melbourne', *Sporting Traditions*, vol. 7, no. 1, Nov. 1990, pp. 26-46.
- 38 *Australian Magazine*, 22/23 Feb. 1992; Jarratt interview.
- 39 *Sydney Morning Herald (SMH)*, 15 Dec. 1990.
- 40 Interview, George Anderson, General Manager, ABL, 17 Aug. 1990.
- 41 Jarratt interview.
- 42 *SMH*, 11 Dec. 1993.
- 43 *Australian*, 24 Nov. 1994.
- 44 Jarratt interview.
- 45 *Action Baseball* p. 63.
- 46 *Action Baseball*.
- 47 Kamasz interview.
- 48 *SMH*, 15 Dec. 1990.
- 49 Anderson interview.
- 50 Upton, *Australian Baseball League*, p. 19.
- 51 For the 1994/95 season this had increased to \$65 000 per club ignoring the [Qantas] sponsorship deal'. Kamasz interview.
- 52 *SMH*, 15 Dec. 1990.
- 53 *Australian*, 25 Feb. 1991.
- 54 *Australian Magazine*, 22/23 Feb. 1992; *SMH*, 11 Dec. 1993.
- 55 For the 1994/95 season ticket prices ranged from \$7.50 to \$12 for adults and \$3.50 to \$5 for children. Kamasz interview; Jarratt interview.
- 56 Interview, Bruce Portner, governing director, Canberra Bushrangers, 6 Dec. 1994, at launch of ABPA.
- 57 Kamasz interview.
- 58 Jarratt interview; *SMH*, 5 Dec. 1991.
- 59 See Arthur T Johnson, *Minor League Baseball and Local Economic Development*, University of Illinois Press, 1993, pp. 15-17.
- 60 Braham Dabscheck, *Sporting Equality: Labour Market vs Product Market Control*, *Journal of Industrial Relations* June 1975, pp. 174-90.
- 61 For details concerning the development of such controls on American baseball see Robert F Burk, *Never Just A Game: Players, Owners and American Baseball to*

- 1920, University of North Carolina Press, Chapel Hill, 1994.
- 62 ABL Standard Playing Contract; Pepsi ABL Rules (effective 20 Oct. 1993).
- 63 Under this system once a player signed with a club he was bound for life. If he wished to seek employment with another club, even if his contract with his previous club had expired, he had to obtain the permission of his old club to take up employment with a new club. Such permission invariably involved the payment of 'high' transfer fees from the new to the old club.
- 64 *Eastham v Newcastle United Football Club*, 1964 Ch. 413 at p. 438.
- 65 *Athletic News*, 22 Feb. 1909. For an account of this dispute see Braham Dabscheck, 'A Man Or A Puppet?', *The Football Association's 1909 Attempt to Destroy the Association Football Players' Union* [International Journal of the History of Sport, Sept. 1991, pp. 221-38].
- 66 *Action Baseball*; 1994/95 ABL Media Guide. Not all non-national players are necessarily 'American' but the overwhelming majority are.
- 67 For details concerning the operation and demise of the option, or reserve clause in Major League Baseball see Seymour Baseball; Dworkin, *Owners versus Players*; Robert C Berry, William B Gould IV and Paul D Staudohar, *Labor Relations In Professional Sports* Auburn House, Dover, Mass., 1986, pp. 47-58; Staudohar, *Sports Industry* pp. 34-9; Lowenfish, *Imperfect Diamond*; Miller, *A Whole Different Ball Game*; Burk, *Never Just a Game*.
- 68 *Buckenar v Hawthorn Football Club*, 1988 VR 39.
- 69 1994/95 Collective Bargaining Agreement, AFL Players' Association/Australian Football League, Clause 5.
- 70 For details see Berry and Wong, *Law and Business*, pp. 185-90.
- 71 Kamasz interview; Jarratt interview; Carton interview.
- 72 Drafting does not allow players the right to choose clubs. The club with whom they can play is determined by clubs choosing/drafting players, usually with the last placed club choosing first, second last second and so on. Drafting has been widely used in the AFL since 1988. For details see Dabscheck, 'Abolishing Transfer Fees'. In 1991 the New South Wales Rugby League's internal draft (i.e. the allocation of current players in the League who have not negotiated a contract with their previous club) was found by the Full Court of the Federal Court of Australia to be an unreasonable restraint of trade. For details see Dabscheck, 'Rugby League and the Union Game'.
- 73 Major League clubs own or 'control' Minor League clubs which they use to groom and train players. For details of the relationship between the majors and minors see Johnson *Minor League Baseball*, pp. 7-34.
- 74 *Canterbury Bankstown Rugby Football Club v Rogers*; *Bugden v Rogers* 1993 ATR 81-246.
- 75 Jarrett interview.
- 76 Brian Ward, 'The Player Contract—A Comparative Analysis: In Search of Equity and Fairness', unpub. paper, Law of Professional Team Sports Conference, University of Melbourne, 17-19 May 1991.
- 77 Letter, Mark Ryan to Greg Mitchell, 27 July 1994.
- 78 Note the figure excludes personal accident cover as required by clause 9.
- 79 For details see *Collective Bargaining Agreement between National Basketball Association and National Basketball Players Association*, 1 Nov. 1988, pp. 55-85 and 178-84; Berry and Wong, *Law and Business* pp. 165-9 and 391-402; and Berry, Gould and Staudohar *Labor Relations*, pp. 181-8.
- 80 *Major League Baseball*, Office of the Commissioner, News Release, *MLB Proposes 50/50 Split with Players*, 14 June 1994, unpub. paper.
- 81 *Pepsi ABL Rules—Team Player Payment Budget*, effective 20 Oct. 1993; Kamasz interview.

- 82 Australian, 26 Nov. 1990.
- 83 Australian, 22 Feb. 1991.
- 84 Jarratt interview.
- 85 Kamasz interview.
- 86 The data for prices and wages is derived from Department of the Treasury, Economic Round Up, AGPS, Canberra (various issues).
- 87 Interstate road trips involve players assembling at the airport on Friday morning, and depending on whether a series finishes on Saturday or Sunday night returning on Sunday or Monday morning.
- 88 Jobsback! The Federal Coalitions Industrial Relations Policy [1992], unpub. paper. For a presentation and critique of Jobsback! see Braham Dabscheck, 'The Coalition's Plan to Regulate Industrial Relations', Economic and Labour Relations Review, June 1993, pp. 1-26.
- 89 If players' insurance costs were deducted player share of income would fall to 5.49 percent and 3.89 percent respectively.
- 90 Braham Dabscheck, 'The Professional Cricketers Association of Australia' Sporting Traditions, Nov. 1991, pp. 2-27. World Series Cricket involved an attempt by media mogul Kerry Packer to establish his own television competition in rivalry to the Australian Cricket Board. For the most recent, and best, account of this episode see Gideon Haigh, *The Cricket War: The Inside Story of Kerry Packer's World Series Cricket*, Text, Melbourne, 1993.
- 91 Dabscheck, 'Abolishing Transfer Fees', p. 70; AFL Strategic Plan 1994, AFL Commission, pp. 17 + 162; Braham Dabscheck, 'Rugby League Post the Draft Case', Australian and New Zealand Sports Law Association Newsletter, vol. 3, no. 3, 1993.
- 92 *Buckely v Tutty*, 125 CLR 353, at p. 380.
- 93 See note 72.
- 94 *Adamson v NSWRL*, 31 FCR 242, at p. 284.
- 95 *Adamson v NSWRL* pp. 288, 289, 291.
- 96 *Adamson v NSWRL* pp. 265, 267.
- 97 *Hall v VFL* [1982] VR 64, at p. 71.
- 98 31 FCR 242, at p. 249.
- 99 Shipley interview.
- 100 Letter Ronald Finlay to G Anderson [probably March 1994].
- 101 Interviews, Ronald Finlay, 30 Nov. 1994; David Hynes, 30 Nov. 1994.
- 102 For details and a critique of this program see Braham Dabscheck, *The Struggle for Australian Industrial Relations*, OUP, Melbourne, 1995, ch. 5.
- 103 Interview, Kimon Taliadoros, 21 Oct. 1994.
- 104 Those in attendance were Mark Shipley, David Hynes (Sydney Blues), Scott Metcalf (Perth Heat); Ross Jones, Damien Shanahan, Ron Carothers (Melbourne Monarchs), Peter Yates, Scott Robinson, Bob Nilsson, Jason Gavranich (East Coast Cougars), John Boothby, Kim Jessop (Brisbane Bandits), Dave Nilsson (Waverley Reds), Troy Martin (Hunter Eagles), Barrie Bahnert (Adelaide Giants), David White (Canberra Bushrangers) and Kimon Taliadoros, Peter Moscat and Michael Sutherland (Media Alliance).
- 105 Minutes, ABPA, Inaugural General Meeting, 11 Oct. 1994.
- 106 The initial management committee comprised Dave Nilsson, President (Waverley Reds), David Hynes, Chairman (Sydney Blues), Kimon Taliadoros, Secretary, Kim Jessop, John Boothby (Brisbane Bandits), Scott Metcalf, Shane Tonkin (Perth Heat), Ron Carothers, Ross Jones, Damien Shanahan (Melbourne Monarchs), Peter Yates, Bob Nilsson, Scott Robinson (East Coast Cougars), Troy Martin, Geoff Bottle (Hunter Eagles), Dave Simpson, Brian Murphy (Canberra Bushrangers), Mark Shipley, Garry White (Sydney Blues), Barrie Bahnert and Nathan Davison (Adelaide

- Giants). Except for Nilsson none of these players are connected/contracted to Major League clubs.
- 107 Action Baseball, 1994/94 ABL Media Guide. As of 1 Jan. 1995 sixty-six players were twenty-five or over, and twenty-nine were thirty or over.
- 108 Kamasz interview.
- 109 See Dworkin, Owners versus Players pp. 17-20 and 25-9; Berry, Gould and Staudohar, Labour Relations, pp. 52-3; Lowenfish, Imperfect Diamond, pp. 139-53 and 183-92; and David Q Voigt, 'Serfs versus Magnates: A Century of Labor Strife in Major League Baseball', in Paul D Staudohar and James A Mangan, eds, The Business of Professional Sports University of Illinois Press, Urbana, 1991, pp. 112-13.
- 110 Dabscheck, 'Professional Cricketers Association'.
- 111 Hynes interview.
- 112 Minutes of Inaugural Committee of Management Meeting, 26 Oct. 1994, via telephone conference.
- 113 Author's notes, Press Conference of ABPA, 6 Dec. 1994.
- 114 Jarratt interview.
- 115 Berry, Gould and Staudohar, Labour Relations, p. 10.
- 116 See note 3.