

The Battle Over Sunday Baseball in North Dakota

Terry Bohn

“Blue Laws”, or prohibitions of activities on Sundays, were written into state statutes when North Dakota gained statehood in 1889. In the state Penal Code, under the section “Crimes Against Religion”, five acts were listed as “Sabbath breaking.” They were: 1) Servile labor, 2) Public sports, 3) Trades, manufactures, and mechanical employments, 4) Public traffic, and 5) Serving process. In Section 9238, playing baseball on Sunday was specifically mentioned as one of the “public sports” along with shooting (i.e. hunting) and horse racing as prohibited activities. Keeping theatres open and surf bathing were also considered “public sports” and therefore not allowed on Sundays. Punishment was set as a fine of not less than one dollar, nor more than ten dollars, at the discretion of the court,ⁱ

Since before statehood, baseball was played in small towns all across North Dakota. Often games were played after church services on Sunday afternoons, the one day in which players and fans had free time to participate in the games. The Nonpartisan League, representing the state’s farmers, insisted that “Sunday is about the only day the boys on the farm have to play baseball.”ⁱⁱ Other advocates representing city dwellers argued “working men and clerks have no time on weekdays for baseball, and are entitled to what recreation they see fit on Sundays.”ⁱⁱⁱ For most of the first quarter century of North Dakota’s history, the prohibition of Sunday baseball was largely ignored, and rarely enforced.

In the late 1800s, Sunday ball playing was common and there was little opposition reported in the state’s newspapers. If anything, some suggested the Sunday games take place outside of city limits “so that those who want to attend the regular Sunday ball game can do so without interfering with the feelings of those who oppose Sunday playing.”^{iv} The earliest hint of opposition was in a letter to the editor of the *Grand Forks Daily Herald* in 1898 in which the writer suggested the newspaper not print the scores of Sunday games. Another paper suggested the best way to combat Sunday baseball was simply to not patronize the games.

But, after the turn of the century some citizens were becoming more vocal in their opposition to Sunday baseball. In 1900, the *Jamestown Alert* expressed their irritation with Sunday baseball writing “On the last two Sabbaths base ball games were played in the city limits of Jamestown. These thoughtless boys are hereby requested to stop playing base ball on the Sabbath day or the matter will be brought to the attention of the legal authorities.”^v

Mayor Register of Bismarck was ambivalent about the ban. He stated that there was no city ordinance prohibiting Sunday baseball, but said that if citizens brought a complaint to him, he would authorize city police to enforce state law. In 1901 the Boston Bloomer Girls, a traveling team, came through Bismarck to play the local team in a game scheduled for a Sunday afternoon. Rather than miss an anticipated big payday from a large crowd, team officials prepared a new diamond and hastily erected a new fence and

grandstand “at the old race track grounds” which were outside Bismarck city limits. The game was then played without any further protest.

In 1904, the *Devils Lake Press* printed a detailed letter to the editor from members of the local ministry that laid out four points against Sunday baseball. The writers argued that Sunday baseball was a violation of state law, a civic disgrace, and is demoralizing to the younger generation. The ministers also claimed Sunday baseball was a public nuisance, citing the “impossibility to take [his] Sunday afternoon nap because of the hooting of the rooters.” The editor of the *Press* acknowledged that some of the points raised were well taken, but encouraged a response from those with an opposing view, the “friends of the national game.”^{vi}

However, when Fargo defeated Duluth in a Northern League Game played Sunday May 22, 1904 before a large crowd, it was said to be “convincing proof of the popularity of Sunday baseball.”^{vii} In fact, others argued that attendance on Sundays was increased due to the prospect of additional excitement if law enforcement showed up to try to put a stop to the game.

Enforcement of the Sabbath breaking statute, particularly in regard to Sunday baseball, was hindered because many public officials and potential jurors were baseball fans. In 1909, the Fourth of July holiday fell on a Sunday. Jamestown had scheduled a ball game with the neighboring small town of Dazey. The Reverend J. W. Ogden of Jamestown knew of the prohibition in the law and filed a complaint. In what the *Jamestown Alert* called a “test case”, charges were filed against three Jamestown players but noted “public opinion seemed to be almost universally in favor of the arrested parties.” The game went on as scheduled, but the next week a jury trial was held. After a short deliberation, the jury declared the defendants not guilty and “an ovation was given the boys ... and the court had difficulty mainlining order.”^{viii}

A month earlier that summer in Valley City, a Sunday game was scheduled with Casselton. On Saturday a number of citizens approached the mayor and the Stutsman County State’s Attorney and were successful in having Judge E. T. Burke issue an injunction which authorized the police to arrest any players participating in the game. The teams decided to play the game on the grounds of the Normal School (now Valley City State University), which was outside the city limits, but after five innings school authorities asked them to leave and the game was not finished.^{ix}

Another confrontation between organized groups opposing Sunday baseball and the players occurred in Grand Forks in 1912. The local ball team was scheduled to play Winnipeg on Sunday May 12. Team management decided to go ahead with the game, but the Grand Forks Ministerial Association announced that if the game took place the offending ball players would be arrested. In the middle of the fifth inning, the sheriff arrested all 18 players who were taken away by automobile to the courthouse downtown where they posted bond. This action angered the estimated 2,500 fans in attendance who “began emptying

onto the field ... and surged about the officers.”^x Within a short time the players had all returned to the ballpark and the game resumed.

A month later Grand Forks catcher Jerry Edmunds was arrested prior to a game with Superior, Wisconsin. He was picked at random, because according to the statute, at least one defendant had to be named in order for a case to be brought alleging violation of the Sabbath law. Edmunds was released on his own recognizance and a hearing was scheduled. He retained legal counsel, but the charges were eventually dropped by district court judge W. J. Kneeshaw, and Sunday baseball continued in Grand Forks without any additional incidents the rest of the summer.

On that same Sunday afternoon in the other side of the state, Minot was getting ready to host the ball team from Stanley when Ward County Sheriff Kelley and three deputies marched in and arrested the ball players. Before the game, two local ministers went to the ball park and attempted to get the names of the players from the scorekeeper. He refused to provide them, so the arrest warrants read “John Lief and seventeen ‘John Does’”. The players anticipated something might be up, so they had their attorneys present at the game. Like in Grand Forks, bond was posted for the players, and the game went on without any further interruption.

Over the next few years, ball playing continued on Sundays, law enforcement threatened sanctions, and various civic organizations expressed their outrage over “Sabbath breaking”. Most of the opposition was from the Women’s Christian Temperance Union (WCTU) and community religious leaders. However, not all members of the clergy opposed Sunday baseball. Bishop Vincent Wehrle of the Catholic Diocese in Bismarck, in a letter to the editor of the *Bismarck Tribune*, stated “According to Christian principals held by the Catholic Church, Sunday is not only a day devoted to rest and religious services, but also a day of recreation and lawful pursuits.” Bishop Wehrle went on to say that “[I] can ... not see any reasonable objection to Sunday baseball” but added the following caveat “...provided that those who thus enjoy themselves have satisfied their religious duties.”^{xi}

Professional baseball leagues under the umbrella of Organized Baseball with North Dakota member cities had operated off and on since 1903. Fargo, Grand Forks, Minot, Cavalier and Devils Lake all had professional teams in the early 1900s. But these teams did not do well financially, due in part to the state’s blue laws. Team owners claimed they could not be profitable if their teams were not allowed to play on Sundays, the day of the week that usually drew the largest number of spectators. As a compromise, several cities suggested declaring “Civic Holidays”, in which shopkeepers would close early one or two days a week to allow people to attend weekday instead of Sunday games, but local merchant associations protested. Grand Forks considered playing their games across the Red River in East Grand Forks, because Minnesota no longer had Sunday baseball restrictions.

With Minot and Fargo franchises in the Northern League struggling financially, the first attempt to resolve the Sunday baseball issue through the legislative process was in 1917. When the Fifteenth Legislative

Assembly convened in Bismarck in January, two bills were introduced dealing with the Sunday blue laws. Representative Brown of Noonan's bill would have allowed incorporated cities to suspend, by referendum, Sunday observance laws, and Senate Bill (SB) 81, offered by Senator David Hamilton of Mandan, was a blanket repeal of the state's blue laws. But Senator Joseph Cahill of Bismarck introduced SB 137, which would make baseball legal on Sundays.

The full Senate added two amendments to Cahill's bill; "organized" baseball was prohibited, and the ball games could not take place within 500 feet of a church. The Senate passed SB 137 and sent it to the House where it was further amended to specify that organized baseball meant that "no games of baseball shall take place where the contesting teams play for money consideration, or where an entrance fee is charged spectators."^{xii} The House, despite "a large lobby of ministers, church workers and professional reformers gathered" passed the bill 70-39 and sent it back to the Senate, who approved it with the House's amendment. The bill, which amended Section 9238 of the North Dakota Century Code, was signed into law by Governor Lynn Frazier on March 15, 1917.

However well meaning, the legislation did little to resolve the issue. The clause related to "money consideration" created more confusion. For decades, local teams raised money to build fences around their ball fields for the purpose of charging admission in order to defray expenses, which often included salaries for the team's best players. In addition, there was almost always some type of wager on the game between the two teams, as well as considerable money changing hands in side bets among the spectators. While the playing of baseball on Sunday was now legal, teams were technically playing for money, and most games were still in violation of state law. (Some teams tried to get around the admission charge restriction by "passing the hat" during games, but State Attorney General Bill Langer ruled that this practice also violated state law.)

During the 1919 North Dakota legislative session, state Senator Whitman of Grand Forks introduced SB 204 which was to legalize Sunday baseball. The bill narrowly passed the Senate 25-23 but died in the House and no further action was taken. However, shortly after the legislative session ended, a number of citizen groups, led by several of the state's American Legion Posts, initiated a referral drive (North Dakota law allows for issues to come to a vote of the citizens if a specified number of signatures are obtained). The purpose of the measure was to eliminate the clause related to the charging of admission, and therefore make professional, or commercialized, baseball legal in North Dakota. In addition to Sunday baseball, three other measures were placed on the March 16, 1920 referral ballot; the creation of a state athletic commission (in order to regulate boxing), prohibiting the sale of cigarettes to minors, and the opening of theatres on Sundays.

The referral votes related to boxing, cigarettes, and theatres all failed, the restrictions remaining in place, but Initiated Measure No. 3 was approved with 26,681 "Yes" votes (51.7%) to 24,885 "No" (48.3%). The measure removed the provision enacted in 1917 prohibiting commercialized baseball and now made Sunday games legal as long as they were conducted "in a quiet and orderly manner so as not to interfere

with the peace, repose and comfort of the community”, not within 5000 feet of a church, and played between the hours of two and six in the afternoon. Governor Frazier signed the bill which he said “legalizes Sunday practices which have been observed by common consent” ...and has been “practically a dead letter on the books since statehood.”^{xiii}

With the ban on commercial Sunday baseball now fully lifted, professional baseball began to take hold in North Dakota, although in all likelihood few games were played in a “quiet and orderly manner”. In 1922 a team from Wahpeton (combining with Breckenridge, Minnesota) joined seven other South Dakota teams in the professional Dakota League. (The team played its home games in Breckenridge only because of the higher worker’s compensation rates in North Dakota) The next year, Minot, Jamestown, Bismarck and Valley City (after moving from Carrington/New Rockford mid-season) formed the North Dakota League. In the 1930s, the Northern League re-organized, and operated with franchises in several different North Dakota cities, through the 1960s.

ⁱ The Compiled Laws of the State of North Dakota, 1913

ⁱⁱ Valley City (ND) Weekly Times-Record, February 8, 1917

ⁱⁱⁱ Grand Forks Herald, February 2, 1919

^{iv} Bismarck Tribune, June 19, 1900

^v Jamestown (ND) Alert, July 5, 1900

^{vi} Devils Lake (ND) Press, June 10, 1904

^{vii} Grand Forks Herald, May 24, 1904

^{viii} Grand Forks Herald, July 29, 1909

^{ix} Grand Forks Herald, June 29, 1909

^x Grand Forks Herald, May 28, 1912

^{xi} Valley City (ND) Weekly Times-Record, February 15, 1917

^{xii} Laws Passed at the Fifteenth Session of Legislative Assembly of the State of North Dakota

^{xiii} Valley City (ND) Weekly Times-Record, February 8, 1917