

**Americanization, At-Will Employment, and Football Codes: A Historical
Comparison of the USA and Australia through Pat O'Dea and Rugby League**

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ABSTRACT

This thesis examines the historical relationship between Australian and American sport, investigating the extent to which Australian sport has been influenced by American practices and whether it can be accurately described as ‘Americanized.’ Through an analysis of key historical developments, legal frameworks, and cultural exchanges, this study explores how Australia’s sporting landscape has evolved in response to direct and indirect American influence. While certain structural elements, such as commercial models, media engagement, and governance structures, bear the imprint of Americanization, the extent of this influence is neither uniform nor absolute. By evaluating these dynamics within the broader context of sport’s role in national identity and transnational exchange, this thesis contributes to a deeper understanding of the evolving sporting relationship between Australia and the United States.

The dynamics between the American and Australian relationship as it pertains to sport must be examined via how the United States, the world’s largest economy and sports entertainment market, diverted from the tradition of English Common Law in favor of at-will employment in the 1890s, what has happened subsequently, and how those circumstances not only impact the internal dynamics of sport but also externally through a combination of soft power as well as direct and indirect U.S. influences on other post-industrial nations, in particular, Australia.

The impact of American law and culture is not limited to Australia and sport as the same principles apply to other post-industrial nations in addition to other industries that look to American practices for influence, be it for or against their status quo. Moreover, this impact is then applied in an in-depth analysis on how it has had a direct impact on both sport codes and individuals, with the major focus being on

rugby league and the Australian rules footballer Pat O'Dea, who remains the only Australian to be in the American football Hall of Fame. Each section provides an insight on early influence, which then provides an understanding as to how the relationship dynamic between the United States and Australia formed and continues to operate today.

Because this research examines the impact of the now-long-standing divergence in American employment law from the 1890s to the present, and applies this approach to the sports business and sporting individuals through the lens of history, law, cultural impact and sport, there are also applications to business management, which can be extrapolated and applied based on the overwhelming amount of time that has passed and the pattern of subsequent events over the last 150-plus years. Focusing on these areas of research results in a study that straddles multiple fields of research. Therefore, there was a need to apply multiple research methodologies that suit each field to provide clear direction, while also being malleable enough to work with one another.

The research results provide a unique insight into the ever-adapting dynamics of the Australian-American relationship, along with the common cornerstone constants and themes that have persevered since the late 1800s. Therefore, these findings can be applied to other post-industrial nations and their relationship with the United States, and is not limited to the sports entertainment industry alone.

DECLARATION

I, Spencer Kassimir declare that the PhD thesis entitled “Competitive Athletes and Football Codes in the USA and Australia: Comparing Historical Case Studies” is between 80,000 and 100,000 words in length including quotes and exclusive of tables, figures, appendices, bibliography, references and footnotes. This thesis contains no material that has been submitted previously, in whole or in part, for the award of any other academic degree or diploma. Except where otherwise indicated, this thesis is my own work. Ethics approval was not required as all information collected from primary, secondary and tertiary sources.

Signature



Date: 10 April 2025

DEDICATION

This research is dedicated to the memory of my late grandparents, poppa Stanley “Victor” Kassimir and nanny Pauline Kassimir, neé Varon, as well as grandpa George Rumelt.

I would also like to dedicate the PhD submission to my son and daughter, Arlo Varon and Marigold Anne, as their presence has been an inspiration for me to keep going even during these years of hard times. The three of us have been through so much since you were born and now, we will have blue skies ahead.

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I am not known for my brevity but fear that prose alone will not allow me to adequately express my emotion and appreciation in this section to the following people (listed in surname alphabetical order):

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TABLE OF CONTENTS

Abstract	ii
Declaration	v
Dedication	vi
Preface	vii
Acknowledgements	ix
Table of Contents	x
Presentation and Grants	xii
Chapter 1	
Introduction: Competitive Athletes and Football Codes in the USA and Australia	1
Chapter 2	
The History and Effects of At-Will Employment in the United States	46
Chapter 3	
Evolution of Rugby League Prior to Direct North American Influence	85
Chapter 4	
Evolution of Rugby League as a Result of American Influence	112
Chapter 5	
The Americanization of Australia's First American Gridiron Player, Pat O'Dea: The State and Evolution of American Sport and Pat O'Dea 1880~1896	145
Chapter 6	
Pat O'Dea and the Changing Landscape of American Sport	193
Chapter 7	
General Discussion and Conclusions	231
Bibliography	244

PRESENTATIONS AND GRANTS

1. Presentations directly related to this thesis

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Chapter 1

Competitive Athletes and Football Codes in the USA and Australia: A Comparison of Historical Case Studies

This chapter explores Australian sport's relationship to *Americanization*, or the application and implementation of American sport codes beyond the United States. It examines how various sporting codes in Australia and the United States initially diverged but later converged, shaping the broader discourse on transnational sport influences. The chapter considers key scholarly works, including Rob Hess's *Origin Stories: Tracing the Development of Netball in Victoria During the Late Nineteenth and Early Twentieth Century*, which outlines the early development of the game, and Emily A. Harrison's *The First Concussion Crisis: Head Injury and Evidence in Early American Football*, which provides insight into one of the earliest recognized health crises in the sport. Additionally, Tony Collins's *The Invention of Sporting Tradition: National Myths, Imperial Pasts and the Origins of Australian Rules Football* establishes a historical foundation for understanding the evolution of Australian sport before significant American influence. Moreover, with exception to Cashman's and Hughes' chapter called *Sport* in Bell's *Americanization in Australia*, there is little to nothing in scholarly work pertaining to the focus of this research.¹ Before applying the concept of *Americanization* to the sporting context, this chapter first defines its broader meaning and implications.

Introduction

The term 'Americanization' inevitably comes to mind when discussing the influence of American culture on other nations.² However, Americanization is not limited to cheerleaders and off-field entertainment, a raucous fan experience, and/or the introduction of

¹ Richard Bell and Philip Bell, *Americanization and Australia*.

² Philip Bell and Roger Bell, eds. *Americanization and Australia* (Sydney: University of New South Wales Press, 1998).

a player draft along with salary caps. Furthermore, the term is not limited to sport, but also applies to business, culture, and social mores, with much of its meaning based on how law shapes these and other aspects of life. Indeed, there is not a single definition of the word, but there is a thematic consensus among many of the delineations that the term involves ‘the act or process of conforming, or making something conform, to the values, customs, and institutions of the United States’.³ Notably, even the Cambridge dictionary uses the American spelling (‘Americanization’) for the word when it defines the term as, ‘the process of becoming more like the US or more like the people or culture of the US’.⁴

Despite the increasing interconnectedness of global sport, the historiography of the relationship between Australia and the United States remains relatively underdeveloped. While scholars such as Tony Collins, Rob Hess, and Ian Warren have explored aspects of transnational sporting influences, particularly in relation to the professionalization and commercialization of sport, there has been limited research that specifically examines the broader structural, legal, and cultural exchanges between the two nations. Even works such as *Australians in America: 1876–1976*, make little to no mention of sport, further highlighting the absence of sustained scholarly inquiry into the athletic dimensions of this relationship.⁵ Similarly, discussions of Americanization in sport often focus on Europe, with less attention given to how these processes have shaped Australian sport.

This thesis aims to partially fill this gap by looking at that relationship through the lens of sport. The purpose of this thesis is to explore the sporting relationship between Australia and the United States by examining their respective historical connections in sport (and, by extension, connections with law and culture), with a methodology that involves comparing

³ See “Definition of Americanization | Dictionary.Com.”

⁴ See ‘Americanization’, Cambridge Dictionary, “Americanization.”

⁵ Moore, *Australians in America, 1876-1976*.

and contrasting case studies from 1895 to the present.⁶ Many major events that shaped the American professional landscape, especially in sport but also in law including but not limited to at-will employment (which have also taken place around 1895), and those to follow (including but certainly not limited to the court case of Martin versus New York Life Insurance Company (which along with the J.P. Morgan and Rothschilds rescued the United States Treasury with a loan of \$65m USD)).⁷ From 1895, as will be explored in greater detail, and from a legal perspective in particular, at-will employment becomes unique to the United States amongst post-industrial nations, allowing as it does for the firing of employees without good cause. From a sport perspective, the year 1895 was particularly noteworthy as many injuries and deaths in American football occurred, and were followed by subsequent rule changes, not to mention the invention of a new, less injurious, sport, Mintonette (later known as volleyball) in Holyoke, Massachusetts.⁸ From an Australian perspective, some of these games, such as basketball, would soon be introduced by means of American influence, which gave way to the sports of netball and basketball, although the former as it is now played is more similar in many ways to the original 1891 rules set out by educator James Naismith than the latter, which still maintains the same name.⁹ In addition to looking at Australia's and America's relationship with one another during the 1890s and first decade of the 1900s, the

⁶ *Martin v. New York Life Insurance Company* (2 N.Y. Ann. Cas. 387, 2 E.H. Smith 117, 148 N.Y. 117, 42 N.E. 416 *Martin v. New York Life Insurance Company*, 148 N.Y. 117, 121, 42 N.E. 416, 417 [1895], 19 December 1895).

⁷ Matthew Simon, 'The Morgan-Belmont Syndicate of 1895 and Intervention in the Foreign-Exchange Market*', *Business History Review* 42, no. 4 (1968): 385–417, <https://doi.org/10.2307/3112526>.

⁸ Emily A. Harrison, 'The First Concussion Crisis.' First Concussion Crisis: Head Injury and Evidence in Early American Football', *American Journal of Public Health* 104, no. 5 (2014): 822–33, <https://doi.org/10.2105/AJPH.2013.301840>.

⁹ Rob Hess, 'Origin Stories: Tracing the Development of Netball in Victoria During the Late Nineteenth and Early Twentieth Century', *The International Journal of the History of Sport* 39, nos 13–14 (2022): 1436–61, <https://doi.org/10.1080/09523367.2023.2174977>.

broader Americanization of Australian sport will be examined. Each chapter will compare and contrast how Australian sport has or has not been Americanized due to the aforementioned relationship between the two nations during this period. Beyond sport itself, the research that underpins this thesis also provides some practical insight into aspects of the educational activities of modern businesses and governments, including all those that aim to learn from international study tours.¹⁰ By extension, those institutions looking abroad to have a better understanding of how business practices can be optimized will find material in this thesis useful, as it will provide a framework to avoid otherwise foreseeable pitfalls.

Background

A great deal within today's sports entertainment industry stems from events in or proximate to 1895. Yet the football codes and much of the sport played by citizens of Australia and the United States have their origins in England and have developed in parallel since, albeit with different outcomes. For example, many historians maintain that Australian Rules football was based on the rules of rugby union, as the laws of the game were promulgated in Victoria by Tom Wills following his return home after being educated at Rugby school.

Rugby league, which broke off from rugby union in England in 1895, was brought to Australia via New Zealand in 1908; By that time, it was not only the same sport with different administrators but also a different sport with different rules, commencing in 1906. Therefore, Australia received the sport as a different sport from rugby union, whereas the English experienced it as essentially the same sport for a decade.¹¹

¹⁰ 'Study Tour', *Collins English Dictionary*, <https://www.collinsdictionary.com/dictionary/english/study-tour>.

¹¹ For a succinct discussion of the origins of Australian Rules football in this context, see, Tony Collins, 'The Invention of Sporting Tradition: National Myths, Imperial Pasts and the Origins of Australian Rules Football', in *Myths and Milestones in the History of Sport*, ed. Stephen

Similarly, American gridiron is also on the rugby union family tree. The rugby tradition was received by Americans from the Canadians in the match between Harvard and McGill in May of 1874, wherein the latter brought what they still called ‘rugby’ to Cambridge, MA, though they had already been using a flat line scrimmage since 1879. Therefore, it is not convincing to say that the American gridiron, at least in its origins, is indicative of American exceptionalism. It would, however, be reasonable to say that the American belief in American exceptionalism did allow some of the American colleges to make the sport even more their own as they began tweaking and changing the rules to suit their vision in the big changes of 1896 and 1906.¹² In short, Yale students from financially comfortable families believed they, as the American elite, would control the future of sport. Walter Camp, though not from the same privileged background, was their friend, classmate, and colleague, and through these ties helped advance their vision, becoming known as the godfather of the American game.¹³ These worldviews, into which Camp soon entered, were extensions of the traditions of the Ivy League schools that embraced the gridiron, and were also from the English school of amateurism as both a form of true sport and actual social control. In this sense, the American elite came to control sport in a manner distinct from how the Rugby Football Union, Northern Union, and Football Association had done in England. The dynamic between international soccer and American football is well researched through the lens of American exceptionalism. These sports do, their own countries of origin, actually represent the reverse of culture at large in their respective nations regarding amateurism and

Wagg (London: Palgrave Macmillan, 2011): 8-31. For more detail on the split between Rugby Union and Rugby League, and the diffusion of both codes, see Tony Collins, *How Football Began: A Global History of How the World's Football Codes Were Born* (London: Routledge, 2019).

¹²David M. Nelson, *The Anatomy of a Game: Football, the Rules, and the Men Who Made the Game* (Newark: University of Delaware Press, 1995).

¹³For further discussion of these points, see Julie Des Jardins, *Walter Camp: Football and the Modern Man* (London: Oxford University Press, 2015).

professionalism.¹⁴ This was achieved by not only maintaining the myth of the beauty of amateurism as a form of social control, but by allowing exceptions at their discretion due to their positions at the elite universities where American football was being played at the top level. Moreover, unlike in England, where these football codes originated and were played, Americans played their game as a university sport. Those who could get into university were welcome to play, but this was on the much larger stage of higher education.¹⁵

However, Australia had its own trajectory. In 1896, modern-day Australia was still a continent of separate British colonies. Yet, by 1901, it had become federated. Australia's federation at the beginning of the twentieth century was entirely different from the United States, which had been federated under the Articles of Confederation (1776-1777).

Therefore, 'Australian' identity via nationhood did not exist when Australian Rules first took root in 1859 with the Melbourne Football Club, nor was it even very strong when rugby league arrived in 1908. Today, the country is still divided by what is commonly known as the 'Barassi Line', an imaginary division between the northeast of the continent, where rugby league and sometimes rugby union are the popular codes, and the southwest of the nation, where Australian Rules football is the game of majority preference.¹⁶ Moreover, the colony of Victoria officially parted from New South Wales on 1 July 1851, thereby cementing its separate identity along the Murray River.¹⁷ With the rugby rules not materializing into Melbourne/Victoria/Australian rules until 1859, this allowed for a truly separate sport and identity to evolve uniquely and differently from both the rugby union code in New South Wales, and, subsequently, rugby league.

¹⁴ Waddington and Roderick, "American Exceptionalism."

¹⁵ Ibid.

¹⁶ Marshall, "Where Do Rugby Codes' Strongholds Turn to Rules?"

¹⁷ "National Museum of Australia - Separation of NSW and Victoria."

Other relevant pivotal events of this era, discussed in varying detail later in the thesis, include the beginning of at-will employment in the United States via *Martin v New York Life Insurance* (1895),¹⁸ the breakaway of clubs to form the Northern Union¹⁹ (which later became the Rugby Football League [RFL]) from the Rugby Football Union (RFU) in England in 1895, which led to the sport's proliferation on the northeastern side of Australia's 'Barassi Line' beginning in (1908)²⁰. Then there was the breakaway of 11 Victorian Football Association (VFA) clubs to form the Victorian Football League in 1896 (which coincided with the departure of Pat O'Dea from Australia),²¹ and *inter alia* brings about stronger Australian/American relations including closer ties via Theodore 'Teddy' Roosevelt Junior during his tenure as US President (1901-1909),²² the first modern Olympic Games (1896) and, overarching themes evident between the United Kingdom and the USA in terms of the Great Rapprochement.²³ Each of these instances contributes to the shift by Australia in terms of greater adoption of American practices and interest in governance and business dating from Australian Federation on 1 January 1901.²⁴ As a result, the influence of American culture on Australia's sports industry offers a useful lens for understanding international

¹⁸ *Martin v. New York Life Insurance Company*.

¹⁹ See, for example, Northern Union/Rugby Football League (RFL), 'Minutes and Letters', 1910, 1911, R300, F219, 72-4, Leeds, UK; RFLRU, University of Huddersfield/Heritage Quay, UK; and 'Northern Union Game', *Arrow* (Sydney), 2 May 1908.

²⁰ For recent discussion on the concept of the 'Barassi Line' (a term first coined in 1978 by Ian Turner), see Hunter Fajak and Brett Tweedle, 'The Barassi Line: Mapping Australia's Community Football Clubs', *Sporting Traditions* 39, no. 2 (2022): 1-12. *Grand Final Ron Barassi Memorial Lecture*.

²¹ See David Allen, 'Pat O'Dea: The "Kangaroo Kicker" with the "Educated Toe"', *The Yorker: Journal of the Melbourne Cricket Club Library*, no. 33 (2002): 6.

²² See Victorian Football League (VFL), 'Minutes', 1903-1908. Wilson, "VFL Minutes 1903-1908."

²³ See, for instance, Phillip Myers, "Dissolving Tensions: Rapprochement and Resolution in British-American-Canadian Relations in the Treaty of Washington Era, 1865-1914."

²⁴ Erik Nielsen, *Sport and the British World, 1900-1930: Amateurism and National Identity in Australasia and Beyond* (London: Palgrave Macmillan, 2014).

development practices, such as study tours. These tours often lack the contextual knowledge needed to produce meaningful outcomes, in part because results in the United States are shaped by business practices and a legal framework, specifically at-will employment, not found in any other post-industrial nation.²⁵

In using a series of case studies, the relationship between American and Australian sports will be examined both in terms of direct American influence on Australia but also the broader interchange between the two sporting, social and business cultures.²⁶ However, before this sporting milieu is discussed in more detail, it is important to have a general understanding of aspects of at-will case law in the United States, as briefly outlined below.

Overview of American Relevant At-Will Employment Case Law

At-will employment is native only to the United States among post-industrial nations. This distinction is particularly significant in the realm of sport, where employment structures for athletes, coaches, and administrators are shaped by the broader legal and economic frameworks of their respective countries. However, its impact is not only felt by those with greater job stability in the United States but also can be observed in how Australia and other nations aim to emulate the successful paradigms of American models of business but its uniqueness in Australia in terms of casual employment law. Precarity levels based on at-will employment in the United States are evident more so in Australia, where casual employment law is codified much more than that of developed Europe and other post-industrial nations.

²⁵ Ian Curlewis and Michael, “Commission Confirms That There Is No Contractual Right to Dismiss ‘at Will’ in Australia.”

²⁶ See Spencer Kassimir, ‘Chat and Business Interview with Ben Graham’, 24 February 2023, <https://open.spotify.com/genre/browse-page>, and Spencer Kassimir, ‘Chat and Business Interview with David Stevenson’, 24 February 2023, <https://open.spotify.com/genre/browse-page>.

Examining at-will employment's origins and evolution, along with its similarities and differences to Australian law in the context of this thesis, is worth exploring further. In this case, sport and the sports entertainment business represent a strong area of focus to better understand these dynamics.

The origin of at-will employment as the de facto status quo in American employment law stems largely from the 1895 case of *Martin v. New York Life Insurance* in New York State, which, in short, stated that an employee can be fired at any time.²⁷ However, it is quite clear from this case that there was very little to no direct legal precedent on which this decision was made.²⁸ The cases cited provided not only no identical and/or meaningfully similar situations and law being applied, but the way in which these disparate cases and treatises were applied were also questionable.²⁹ Looking at the cultural paradigm of its time, the ruling more so sits upon and in alignment with the business and governmental goals as well as paradigms of the 1890s; these can be summarized as deregulation and growth.³⁰

The United States, being a nation of English Common Law, had never had any history of at-will employment within its borders nor in its extended pre-federation, colonial history.³¹ As English Common Law was also applied in Scotland, at-will employment was also not part

²⁷ *Martin v. New York Life Ins. Co.* | Cases | Westlaw.

²⁸ Shapiro and Tune, "Implied Contract Rights to Job Security Note."

²⁹ See, for example,

Horace Gray Wood, '*A Treatise on the Law of Master and Servant: Covering the Relation, Duties and Liabilities of Employers and Employees*', 1877; Wayne P. Bryan, 'Master & Servant Employment Contracts: The Burden of Establishing Standards of Performance as a Basis for Employment Termination Rests Upon the Employer Case Note', *University of Detroit Journal of Urban Law* 59, no. 1 (1981-82): 83-98; and Peter J. Shapiro and James F. Tune, 'Implied Contract Rights to Job Security Note', *Stanford Law Review* 26, no. 2 (1974): 335-70.

³⁰ Stefano Battilossi, 'Financial Innovation and the Golden Ages of International Banking: 1890-1931 and 1958-81', *Financial History Review* 7, no. 2 (2000): 141-75, <https://doi.org/10.1017/S0968565000000093>.

³¹ Marc Linder, *The Employment Relationship in Anglo-American Law: A Historical Perspective* (New York: Greenwood Press, 1989) Linder, "The Employment Relationship in Anglo-American Law."

of Scotland's history.³²

Addressing Horace G. Wood's treatise cited American cases that were inconsistent with American law as it stood in his time, which will be discussed further. He additionally cited Scottish cases, which were tangential at best, to the matters surrounding his introduction of the idea that at-will employment always had solid legal footing in the United States.

In 1877, a relatively unknown man by the name of Horace Gray Wood (sometimes known as Horace Gay Wood) wrote 'A Treatise on the Law of Master and Servant'. This law would later be known using the terms 'employer and employee'.³³ In this treatise, Wood cites four American cases and two Scottish cases in support of his assertion that just as an employee may leave an employer's employ at any time, so too may an employer terminate the working relationship that is in place at any time. Wood himself even acknowledges the inconsistencies here; for example, he states that:

... it is true that this was a Scotch case; but in that very case the law of Scotland and the law of England were held to be the same in this branch of the law of master and servant. It may be true that some of the cases cited at the bar are not quite consistent with this rule, particularly those which seem to make the personal misconduct or personal knowledge of the master a necessary ingredient in his responsibility.³⁴

Yet 18 years later, this treatise is cited in the *Martin v. New York Life Insurance* case as if it were gospel.

It is a relevant point that Wood wrote his treatise just 12 years after the United States passed the 13th Amendment to the Constitution, abolishing slavery in 1865. Today, stating that a servant, now legally known as an employee, has the right to leave their place of work of their free will seems obvious, but this was arguably not so for all peoples back in 1877.

³² *Adams v. Fitzpatrick* (325 N.Y. 124, 26 N.E. 143 [189x] 1891); *Davis v. Gorton* (*Davis v. Gorton*, x6 N.Y. 255 [1857] 1857).

³³ Wood, *A Treatise on the Law of Master and Servant*, 1877.

³⁴ Wood.

However, indulging in the idea that this therefore means that a master/employer has the right to terminate the working relationship at-will is a stretch, as it is not based on any prior English Common Law.³⁵ Concluding this is even more of a stretch. Twentieth century legal experts such as St Antoine, Shapiro and Tune, as well as Secunda, all point to this logical fallacy in their writings, as later explained.³⁶

The issue at hand is that Wood's treatise is not only of a different time and place, whilst also drawing a nonlinear conclusion, but that *Martin v. New York Life Insurance* relies on such a treatise from 18 years prior that had not been impactful in employment law since it was published. The understanding being that, as the above scholars have stated along with Bryan have pointed out, it was not well-written, well-received, nor meaningful.³⁷ It only became meaningful when it was relied upon in the 1895 *Martin v. New York Life Insurance* outcome.

Synopsis of Applicable Works in Sports Research

This thesis relies on primary, secondary and tertiary sources depending on what is most appropriate for the focus of the subject matter. In terms of discussion surrounding legal precedent, cases and treatises will be directly cited. However, in the case of sport, much of its history has been recorded by journalists and then subsequently analyzed by academics, thus creating both tertiary and secondary sources. These latter two types of sources are observed to be more advantageous in many ways to primary sources where opinion is involved, since records such as minutes may not provide adequate context in discussing agenda items beyond the scope of a closed meeting. For example, a minute acknowledging

³⁵ Linder, *The Employment Relationship in Anglo-American Law*, 373. Linder, "The Employment Relationship in Anglo-American Law."

³⁶ St. Antoine, "At-Will Employment." Shapiro and Tune, 'Implied Contract Rights to Job Security Note'; Secunda, "Constitutional Employment Law."

³⁷ Bryan, "Master & Servant--Employment Contracts--The Burden of Establishing Standards of Performance as a Basis for Employment Termination Rests upon the Employer Case Note."

receipt of a letter from President ‘Teddy’ Roosevelt is significant in the Victorian Football League minutes, but it hardly explains why such a letter was sent, its contents, or the reasoning for such an occurrence.³⁸

However, when combined with context from the contemporary press, including yellow journalism, it can be understood that part of Roosevelt’s wider agenda was his desire to ‘save’ American football from being banned, largely due to the 45 deaths that occurred between 1900 and 1905, with alarming headlines such as ‘18 Football Players Dead and 159 Seriously Injured’ evident in 1905³⁹ Indeed, even twenty-first century medical doctors Edward Nichols and Frank Richardson cite the *Chicago Tribune* for these figures.⁴⁰ Therefore, looking to each primary, secondary, and tertiary sources provides a rich and informed tapestry appropriate for each field of focus within the thesis.

As far as secondary sources are concerned in respect to academic and scholarly work, there are many works that analyze the relationship between nations, the connections between sports on their respective family trees, and even how different forms of English Common Law overlap and diverge. However, there appears not to be any formal writing as to how these aspects meaningfully overlap and provide insight into the relationship that each have. Mainly, here, how law shapes culture within and between nations through sport is considered as an area of focus, whereas other works go into their own unique depth within more narrow silos, helpfully also focused on the years leading up to and beyond Australian Federation.

Erik Nielsen states that ‘... in an Australian context, the United States played a key role during times of tension between Australia and Britain’. He goes on to explain that ‘This is best exemplified by Australian responses to the “Great White Fleet” in 1908’, and points

³⁸ Wilson, “VFL Minutes 1903-1908.”

³⁹ Edward H. Nichols and Frank L. Richardson, ‘The Classic: Football Injuries of the Harvard Squad for Three Years Under the Revised Rules’, *Clinical Orthopaedics and Related Research* 409 (2003): 3,

⁴⁰ Nichols and Richardson, “The Classic.”

out that ‘This display of American naval power visited Australia in 1908 after an invitation was secured by Australian Prime Minister Alfred Deakin from the Colonial Office despite British misgivings.’⁴¹

Given that the book by Nielsen focuses on sport and the British world, he then goes into depth in a chapter exploring ‘relationships forged with amateur athletic figures and bodies in the United States and Canada’.⁴² In doing so, he explores the aspects of British culture informed by aspects of Canadian and American culture, including but not limited to sport. He also cites Elaine Thompson’s colorful definition of Australia as being so influenced by the United States that it is, in practice, a “Washminster” mutation’.⁴³

In other cases, Richard Cashman points out how, ‘... by the 1970s, many revisionist historians were deeply suspicious of the nationalism associated with Federation’, which also included aspects of sport and cultural identity.⁴⁴ It is important to contextualize how many observers assert opposing view as to whether 1901 truly marked the birth of the Australian nation. Nonetheless, it is the point at which separate British colonies legally united under one federal banner across the Australian continent. At the time Cashman wrote the introduction to the co-edited collection of papers in 2001, he noted, ‘Federation barely rates a mention in the five histories of Australian sport that have been published in recent decades by Stoddart (1986), Vamplew and Stoddart (1994), Cashman (1995), Adair and Vamplew (1997 and Booth and Tatz (2000)’.⁴⁵ Thankfully, this initially paltry collection of valuable secondary sources has now grown, but there is still enough room to build on the shoulders of their

⁴¹ Nielsen, *Sport and the British World, 1900-1930*.

⁴² Nielsen, *Sport and the British World*,

⁴³ Cited from Elaine Thompson, ‘The “Washminster” Mutation’, *Politics* 15, no. 2 (1980): 32–40, <https://doi.org/10.1080/00323268008401755>.

⁴⁴ Richard Cashman, ‘Introduction’, in *Sport, Federation, Nation*, eds. Richard Cashman, John O’Hara and Andrew Honey (Sydney: Walla Walla Press in conjunction with the Centre for Olympic Studies, University of New South Wales, 2001): 1.

⁴⁵ Cashman, O’Hara, and Honey, *Sport, Federation, Nation*.

research. In this scenario, employment law between Australia and the United States is still a wedge of difference even in a world of Americanization and globalization. It is very telling that many of the authors who contributed to *Sport, Federation, Nation* over 20 years ago have continued with Australian Federation as a focus of their research, with the prime examples being Richard Cashman and Rob Hess.

It is no accident that there was the beginning of what could have been a full-blown renaissance in Australian sport research leading up to, and after, the year 2000, since this was when a mega sporting event, the Olympic Games, took place in Sydney. However, a long-term renaissance that a researcher might have hoped for did not eventuate, even though many books of this period were of great value, with authors covering a range of topics pertaining to sport history, women's studies, and the business of sport, evident in volumes such as *Sport in Australasian Society: Past and Present*.⁴⁶ However, it must be acknowledged that the impact of law on sporting developments from an international externality such as the United States seems not to be broached in any substantive manner. That is not to say that impact and influence from the United States was not covered in the above-mentioned volume, as Ian Andrews demonstrates below in his commentary on some relevant cross-code developments of the 1980s:

The Foschini debacle forced the League into a major strategic and policy re-think. This exercise was informed by a 1983 reconnaissance trip to the United States, where VFL officials met administrators from the National Basketball Association (NBA), and the National Football League (NFL). At these meetings, a range of issues were canvassed, including the merits of a player draft system and a salary cap.⁴⁷

However, since the player draft was introduced to the Australian Football League (AFL), but not the National Rugby League (NRL), there are clearly other factors at play that bring parity

⁴⁶ Mangan, Nauright, and Ian Andrews, *Sport in Australasian Society: Past and Present*.

⁴⁷ Ian Andrews, 'From a Club to a Corporate Game: The Changing Face of Australian Football, 1960-1999', in *Sport in Australasian Society: Past and Present*, eds. J.A. Mangan and John Nauright (London: Frank Cass, 2000): 240. Mangan, Nauright, and Ian Andrews.

to competition in a sporting league, including but not limited to the age of players when drafted and the laws surrounding at-will employment in the United States; both are different from Australia, which begs more attention to the details before implementing models that are successful overseas that may not be compatible based on the status quo of another nation and/or organization. In this sense, the research in this thesis is different, whilst building on that of the past by bringing in a new legal element to the analysis.

Again, these discussions are not limited to the above authors. Douglas Booth and Colin Tatz explored the relationship and ‘bribery scandal’ between the Salt Lake City Olympics and the Australian Olympic Committee.⁴⁸ In his solo work, Richard Cashman also provides an in-depth analysis of Australian sport, which is focused more so around more traditional sport research in terms of British influences, amateurism versus professionalism, gender, ethnicity and politics from an Australian perspective. Yet, he also looks at themes related to so-called ‘Americanization’, including, but not limited to, softball in Australia, Australia’s desire to beat the United States and its desire to defeat Great Britain due to its stronger economic ties with the former despite Commonwealth ties with the latter, amongst connections in other sporting disciplines.⁴⁹

Even textbooks such as *Sports in Society: Issues and Controversies in Australia and New Zealand* account for sociology, history, children, deviance, violence, gender, race and ethnicity, social class, the economy, media and policy, politics and globalization, yet there is not a chapter devoted to law specifically.⁵⁰ Though the last chapter does touch on globalization, it is limited in its scope regarding the United States, focusing as it does on the

⁴⁸ Booth and Tatz, *One-Eyed*.

⁴⁹ Richard Cashman, *Paradise of Sport: The Rise of Organised Sport in Australia* (Melbourne: Oxford University Press, 1995).

⁵⁰ Jay J. Coakley, Chris Hallinan, Steven Jackson, and Peter Mewett, *Sports in Society: Issues and Controversies in Australia and New Zealand* (North Ryde: McGraw-Hill, 2012).

2002 Winter Olympic Games and ‘illegal and illicit strategies’ surrounding Salt Lake City, the boycott of the Moscow Olympics by the United States and the Soviet Union’s response at the Los Angeles Olympic Games.⁵¹ These events were a decade, 30 years, and 26 years prior to this edition’s publication, respectively, but there is little to any information written about the impact of changes in domestic or international law, let alone contemporary events.

The sample of secondary sources mentioned above contains worthwhile depth and knowledge, yet, in all of these cases, an exploration of the impact that at-will employment has on developments in sport is not evident. To this end, at-will employment is a distinct focus of this thesis due to its inherently irreconcilable and incompatible nature when compared to other post-industrial and post-industrial Common Law nations such as Australia.

Methodology

Methodology in this discipline tends to be focused around the aggregation of primary, secondary, and tertiary sources that are then extrapolated into a conclusion regardless of whether these prove what is initially set out in a hypothesis. The conclusion in such cases may be entirely different from a researcher’s originally conceived belief on the said subject matter. It is crucial that the reverse is not done, where a researcher simply cherry-picks convenient sources to simply prove whatever the original hypothesis is believed to be. Doing so would be disingenuous to the intent of this methodology and research as a whole.

Historical research requires the use of all three sources for various reasons such as, but not limited to, the limitations of recorded history surrounding a date or event. However, it should be noted that each of these sources should be best used to corroborate or even dispute others in order to best understand what actually transpired and how such things are to be interpreted. As Kenneth Lipartito understands it, ‘historical sources are fragments or

⁵¹ Ibid.

traces of evidence from the past ...'⁵² Therefore, each additional source repeats or alleges the validity of something occurring acts to bolster and strengthen said validity. One of the weaknesses that may present, as a result, is that there is always a possibility of various sources not being critical and merely accepting and then repeating the account that said person heard and/or came across through various methods. Yet, qualitative review is also required, not just quantitative redundancies, which can provide misleading conclusions on their own. Therefore, comparison methodology is quite important. As Alan Macfarlane states, 'comparison methodology is to individualize or exclude impressions or objects as having originating from an identical source or as being one and the same'.⁵³

How a source is corroborated is crucial in understanding whether or not it is worth citing, and this includes how it is produced. In sport, the vast majority of accounts are through news media, and these tend to be written by first-hand observers of games, matches and events. Much can also be learned from primary sources such as minutes of meetings, but these can be limiting. An example of a useful primary source via minutes is where the VFL acknowledged receipt of a letter from President Theodore Roosevelt.⁵⁴ Having this information corroborates the lengths to which he and Walter Camp went in order to ascertain best business tactics that might help to rescue American football during the early part of the twentieth century. It also corroborates a likely answer as to why Camp had a copy of the 1906 VFL Constitution, which is still housed in his collection at Yale.⁵⁵ But it would not

⁵² Kenneth Lipartito, 'Historical Sources and Data', in Marcelo Bucheli and R. Daniel Wadhvani, eds, *Organizations in Time: History, Theory, Methods* (London: Oxford University Press, 2013): 284-304.

⁵³ Alan Macfarlane, 'To Contrast and Compare', *University of California Working Series Papers*, 15 August 2006, <https://escholarship.org/uc/item/8sc6s885>.

⁵⁴ Wilson, "VFL Minutes 1903-1908."

⁵⁵ 'Yale Archives Camp (Walter) Papers', Collections ID Number/Call Number: MS125, Accession Number: None, Series Number: II, Box Number: 41, Folder Number: 148, n.d.

have been enough to merely see this copy, or even to know where to look for it, had it not been for an oral account provided about the two men's mission to save football.

In this thesis the 'compare and contrast' models of methodology have also been employed as the research also considers the application of findings even though the text is based in history and focused around the evolution of various events and occurrences in sport. For example, this first chapter seeks to establish an understanding of at-will employment in the United States leading up to and through its implementation but, to obtain a better understanding, the subsequent chapters look at its impact on rugby league and the figure of Pat O'Dea. The former provides insight into how the changes in America had an impact on a non-domestic sport in England, and, in this capacity, provides an in-depth analysis and understanding of the macroscopic impact that this has had. In the latter, the focus is more at the micro-level with Pat O'Dea, where, instead of looking at how said laws and the culture it impacted did so on an organization abroad, a focus on O'Dea as an Australian individual playing in the United States provides a different point of view. Neither is better than the other, but there is greater context and understanding of what and how Americanization impacts both large foreign entities and local domestic individuals. O'Dea is also an especially useful case study given that he was 'foreign', and therefore acts as a point of comparison when contrasted with an American-born individual in the United States.

As for the macro-perspective, rugby league was chosen to be the sport of focus ahead of other codes for several reasons. Firstly, rugby league is an English sport with origins in rugby union before the split of 1895. Secondly, there are clear indicators through its subsequent history as to why rugby league reduced the trend of looking towards English sport, including soccer and rugby union, in favor of the American system. These increases in American influence were both sought after but were also present in media in England. As opposed to Australian Rules football, which adopted a more American business modelling of

professionalism in the 1990s including but not limited to a player draft, rugby league's rules were changed and adjusted, especially after 1966, to be more aligned with American sport paradigms.

In respect to the micro, Pat O'Dea stands as potentially one of the best exemplars, as he played in two different VFA clubs before leaving Australia and playing American football for four years. Despite the fact that he was rejected in Australia for three applications to study law at university, he was immediately picked up for his rowing (and then football) skills by the University of Wisconsin, where he graduated and then became a lawyer.⁵⁶ His personal experience in each country, despite the passage of 125 years, is still uncannily accurate, representing much of today's culture surrounding universities and life in Australia and the United States, as the latter will still accept students based on extracurricular and other non-academic talents, especially football.

That said, Americanization is not some alien process found only in sport and absent from other parts of life. Rather, it is a phenomenon that permeates globally, most notable from the nineteenth century onward. Because of the global impact across industries and cultures at large, there are references to political, military, and global events and policy throughout the research for this thesis. Similarly, in auteur film theory, there is a concept called extra-cinematic influence.⁵⁷ Some theorists theorize and analyze a film for what is actually seen and heard on the screen and through the speakers, whilst ignoring all potential or proven influences that exist outside the *mise-en-scène* because these extra-cinematic elements cannot be absolutely tied to a film, especially when the director and writers and so

⁵⁶ Dave Revsine, *The Opening Kickoff: The Tumultuous Birth of a Football Nation* (Essex, CT: Lyons Press, 2014).

⁵⁷ Don Fredericksen, "Review of Theories of Film." 'Review of *Review of Theories of Film*, by Andrew Tudor', *Journal of Aesthetics and Art Criticism* 34, no. 1 (1975): 92–94, <https://doi.org/10.2307/428661>.

on are long dead, even though others choose to include them.⁵⁸ However, though ignoring that extra-cinematic element creates a certain structure in which to theorize, it is known from the start that it is lacking because, inevitably, there must be extra cinematic influences that impacted not only on the film, but the writer, director, and others above and below the line.⁵⁹ In short, the methodology used here is quite similar in the sense that both, though in different fields, are connected by these very same paradigms of analysis and act in similar, if not the same, methodology for the purposes of cultural preservation.

The range of influences and impact is why the compare-and-contrast methodology is being used here in addition to the traditional aforementioned methods applied historically.⁶⁰ Using it is also an additional method to test the historical sources. Therefore, the outcome will corroborate or dispute what is found in the records. In this sense, as Macfarlane writes, the use of broad comparison is quite useful: ‘The necessity for broad comparison has been recognized by most who have thought deeply about the origins of modern society and its likely future development’.⁶¹ In this capacity, this thesis is best suited to the broad comparison (and contrast) since the goal is to best understand the origins of Americanization, the origin of what it means, why it is this way, and how it has been applied to the macro organization and individuals.

Moreover, Macfarlane asserts that, in more recent times, an emphasis has been on the contrast rather than compare side of the ‘contrast and compare’ method because humans are more concerned with differences than similarities.⁶² Whichever is actually most in vogue, they each play a part here, but comparison is certainly more of the focal point between the two in this research. To be specific, the intent is to bridge the silos of superficially separate

⁵⁸ Ibid.

⁵⁹ “Above-the-Line vs. Below-the-Line Crew.”

⁶⁰ “Above-the-Line vs. Below-the-Line Crew.”

⁶¹ Macfarlane, “To Contrast and Compare.”

⁶² Macfarlane.

fields to pierce the veil and expose the underlying similarities that have driven, and continue to drive, trends through history, sport, and even law for both the living/natural person and legal person as entities.⁶³

The limitations of the compare-and-contrast method comes from the inherent nature of creating a duality between two areas of focus. Reza Azarian has summed up the limitation nicely, along with the hurdles that he has experienced in his own research in reconciling the shortcomings:

Against this, there have been several attempts at transcending the apparently uncompromising and artificially held dualism between the two extreme positions, trying to gain more subtle insights based on the actual empirical comparative research and, as the debate on the potentials and limitations of the method continues, several typologies have developed with regards to the worth and place of comparison as a scientific method, most of them focusing upon the possible leverages of this method in developing our theoretical comprehension of the social reality⁶⁴

These paradigms are simply part of the nature of this methodology, but by using compare, contrast, and, by extension, the broader forms of these, entirely assuaging the above concern is not entirely possible as it is the limitation of the method, but at least it will be properly addressed and its impact further minimized.

In this sense, some case study methodology is also employed. Here, the Merriam-Webster definition has been used: ‘Case Study. An intensive analysis of an individual unit (as a person or community) stressing developmental factors in relation to environment’.⁶⁵ As can be observed, this research has used both a person and a community that will both then be compared and contrasted as to the impact of at-will-employment based Americanization. This definition more than suffices, as it is also the primary definition used by Bent Flyvbjerg

⁶³ Legal Information Institute, ‘Natural Person’, accessed 30 May 2023, https://www.law.cornell.edu/wex/natural_person; Legal Information Institute, ‘Legal Person’, accessed 30 May 2023, https://www.law.cornell.edu/wex/legal_person.

⁶⁴ Reza Azarian, ‘Potentials and Limitations of Comparative Method in Social Science’, *International Journal of Humanities and Social Science* 1, no. 4 (2011),

⁶⁵ ‘Case Study’, *Webster Dictionary*, <https://www.merriam-webster.com/dictionary/case+study>, 28 April 2023.

in the *Sage Handbook of Qualitative Research*.⁶⁶ Charles Schell further states how, ‘the case study is the most flexible of all research designs, allowing the researcher to retain the holistic characteristics of real-life events while investigating empirical events’.⁶⁷ Working with this understanding, the case study methodology works nicely to bridge the silos between the historical source methods and that of the broad compare and contrast.⁶⁸ Notably, this falls into Gerring’s observation that N=1 (also known as a singular observation), is more of a myth, as many observations are made in this study, which are more akin to his stating how a case study is ‘intensive study of a single unit or a small number of units (the cases), for the purpose of understanding a larger class of similar units (a population of cases)’.⁶⁹

One limitation of the case study method is that there is a degree of subjectivity that emanates from much of the writing. This is especially pronounced in tertiary and journalistic sources, and therefore every reasonable precaution has been taken to acknowledge this methodological shortcoming without completely ignoring what are still vital sources despite the presence of personal opinion. The nature of researching sport does require the use of not just journalism but also even yellow journalism. In the former, many items can be found that are often written by those present at the time, notably as attendees at sport events as well as formal meetings, from which minutes for leagues and clubs are recorded. Even so, many records of minutes are unavailable and others are simply lacking detail, so having journalistic sources of this sort is crucial in filling in parts of the history that otherwise would have been

⁶⁶ Bent Flyvbjerg, ‘Case Study’, in *The SAGE Handbook of Qualitative Research*, eds. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oaks, California: SAGE, 2011): 301-316.

⁶⁷ Schell, “The Value of the Case Study as a Research Strategy.” Charles Schell, ‘The Value of the Case Study as a Research Strategy’, *Manchester Business School* 2, no. 1 (1992): 1–15.

⁶⁸ Yin, *Case Study Research*.

⁶⁹ John Gerring, *Case Study Research: Principles and Practices* (Cambridge: Cambridge University Press, 2007).

left blank. As far as the latter, yellow journalism, these sources are merely acknowledged here, but are treated warily. Such sources can, for example, be useful for understanding the zeitgeist of the time at which they were written, so the material has some value, but in most cases, caution is required in utilizing such sources in a meaningful way.

Competition and Courting Between the United Kingdom's British Empire and the Growth of the United States as a Global Presence with American Exceptionalism During the Great Rapprochement

The topic here is diverse and deep enough to warrant the additional usage of a broad contrast and compare along with case study methodologies under the umbrella of historical source analysis. In this particular historical scenario, a brief overview will suffice. The nature of the United Kingdom and the United States as respective 'empires', like many powerful nations, have often used a combination of force but also courtships with other nations to gain favor with less powerful ones by providing support.⁷⁰ Historically, Great Britain had done so by incorporating parts of the 'new world' into their empire at large, which provided a sense of connection to the homeland whilst still distinguishing their superiority.⁷¹ This is quite different from what, for example, France had done in their periods of colonization, as all parts of their newly acquired land were brought into the country as legally parts of France itself.⁷² Colonization did end for both nations but on different terms, and one cannot help but acknowledge that this is, in part, due to the different perceptions of the colonized as to their

⁷⁰ For examples, see Greenwood, "The 1908 Visit of the Great White Fleet."

⁷¹ Borch, "Rethinking the Origins of Terra Nullius." Merete Borch, 'Rethinking the Origins of Terra Nullius', *Australian Historical Studies* 32, no. 117 (2001): 222–39, <https://doi.org/10.1080/10314610108596162>.

⁷² See Laurent Dubois, 'La Republique Metissee: Citizenship, Colonialism, and the Borders of French History', *Cultural Studies* 14, no. 1 (2000): 15–34, <https://doi.org/10.1080/095023800334968>; Susan Slyomovics and Sarah Abrevaya Stein, 'Jews and French Colonialism in Algeria: An Introduction', *The Journal of North African Studies* 17, no. 5 (2012): 749–55, <https://doi.org/10.1080/13629387.2012.723427>; David Prochaska, *Making Algeria French: Colonialism in Bône, 1870-1920* (Cambridge: Cambridge University Press, 2002).

identity as part of, or alongside, their colonizers. Legally, those subjects of the British Empire were never under a false impression that they were *citizens* of England or anywhere in Great Britain, whereas many in the French-controlled realms felt that they were indeed truly French.⁷³ Moreover, when British former colonies gained their independence, many decided to remain a part of the Empire and, later, the Commonwealth, whereas the possibility for a looser association to France was not an option.⁷⁴ Great Britain provided itself with an exit strategy via association in a post-colonial world and evolved more into a collection of English-speaking nations, albeit still with the British monarchy at the helm of the Commonwealth.

The United Kingdom also realized that there was a need to adapt to this new world structure where it was going to have less clout, from a political perspective, in other nations' affairs, but could still do so by proceeding as per the above, whilst also creating a new pseudo-English-speaking empire with the United States via the Great Rapprochement.⁷⁵

Before exploring these efforts, it is important to understand why the United Kingdom would want to do so. Though the United States did not participate in formal colonization, as the European powers did, it did create its own form of imperialism via economic and military power.⁷⁶ As opposed to Alaska, which was purchased from Russia,⁷⁷ the Louisiana Purchase

⁷³ See, for example, *La Battaglia Di Algeri*, Igor Film/Casbah Film, 1967.

⁷⁴ Tony Smith, 'A Comparative Study of French and British Decolonization', *Comparative Studies in Society and History* 20, no. 1 (1978): 70–102, <https://doi.org/10.1017/S0010417500008835>.

⁷⁵ Rapprochement';. Myers, 'Dissolving Tensions'.

⁷⁶ Gary Dean Best, 'Jacob Schiff's Early Interest in Japan', *American Jewish History* 69, no. 3 (1980): 355–59; Daniel Gutwein, 'Realpolitik or Jewish Solidarity? Jacob Schiff's Financial Support for Japan Revisited', in *Rethinking the Russo-Japanese War, 1904-5, Volume 1*, ed. Rotem Kowner (London: Brill, 2007): 123–138; Best, Gary Dean Best, 'Financing a Foreign War: Jacob H. Schiff and Japan, 1904–05', *American Jewish Historical Quarterly* 61, no. 4 (1972): 313–324.

⁷⁷ Reinhard H. Luthin, 'The Sale of Alaska', *The Slavonic and East European Review* 16, no. 46 (1937): 168–182.

from France,⁷⁸ Texas⁷⁹ and California⁸⁰ broke off from Mexico prior to joining the United States, and the Spanish ceded territories from the Spanish-American War;⁸¹ Manifest Destiny,⁸² along with the colonizing of American Samoa and Hawaii are more similar to European forms of colonization.⁸³ Additionally, it is important to differentiate Hawaii in the present sense since it did vote to become an American state, whereas the other entities are still territories of varying natures.⁸⁴ Indeed, there is a perception that much of America's noted power comes from World War I and World War II, but this process began much earlier.⁸⁵

However, it is also significant to note that the concept of colonization in America is different from that of Australia. It is not limited to the different methodologies that were employed to assert legal ownership over distant lands, but it is also important to differentiate presence, or lack thereof, in the British Empire. Great Britain colonized parts of North America that later became the 13 original colonies. Since the United States did not yet exist,

⁷⁸ Peter J. Kastor, *The Nation's Crucible: The Louisiana Purchase and the Creation of America* (New Haven, CT: Yale University Press, 2008).

⁷⁹ Stanley Siegel, *A Political History of the Texas Republic, 1836-1845* (Austin: University of Texas Press, 2010).

⁸⁰ Thomas Richards Jr., *Breakaway Americas: The Unmanifest Future of the Jacksonian United States* (Baltimore: Hopkins Press, 2020).

⁸¹ Alejandro de Quesada, *The Spanish-American War and Philippine Insurrection: 1898-1902* (Bloomsbury: Bloomsbury Publishing, 2012); Greg Clinton, *Puerto Rico and the Spanish-American War* (Buffalo, NY: Cavendish Square Publishing, 2015).

⁸² W.L. Hixson, *American Settler Colonialism: A History* (London: Palgrave Macmillan, 2013).

⁸³ Weisler et al., "Colonisation and Late Period Faunal Assemblages from Ofu Island, American Samoa."

⁸⁴ John F. Grabowski, Virginia L. Aylesworth, Thomas G. Aylesworth, and Patricia A. Grabowski, *U.S. Territories and Possessions: Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, Wake, Midway, and Other Islands, Micronesia* (New York: Chelsea House Publishers, 1992).

⁸⁵ Giovanni Arrighi, *The Long Twentieth Century: Money, Power, and the Origins of Our Times* (Brooklyn, NY: Verso, 1994).

it would be inaccurate to classify this period as American colonialism. However, the examples discussed in previously are appropriate in terms of America's colonial growth. Mainly, Manifest Destiny does align with the colonial Australian practice of conquering Australia and its population. The United States achieved its own conquest independently of Great Britain as it had broken off, whereas Australia remained firmly 'under the thumb' of empire until Federation in 1901. As evident, both were involved in forms of colonization on their own continents quite similarly, regardless of being part of Empire or not. How the foreign lands were taken is also where this form of colonization differed from that of Europe, which is also associated with overseas colonies.

By extension, law in the United States continued to develop connected at its roots to English common law, but developing separately, whereas Australia, even up until 1986, was able to go beyond its High Court and appeal to Privy Council in Great Britain.⁸⁶ It is germane that Privy Council only came into existence in 1833, over half a century after the United States had become independent.⁸⁷ In saying this, pre-Federation Australia continued to be guided by Great Britain in its development of a legal code, and then for another 85 years post-Federation. Contrasted with the United States, which did use English common law prior to obtaining self-governance in 1776, Australia's law is more closely aligned with much of the law in Great Britain. The connection to the United States does exist in the legal sense, though, since it has a codified, written Constitution and is based on Federated states, hence the term 'Washminster'.⁸⁸ The Washminster system of Australia, unlike Great Britain,

⁸⁶ P.A. Howell,

The Judicial Committee of the Privy Council 1833-1876: Its Origins, Structure and Development (Cambridge: Cambridge University Press, 1979).

⁸⁷ David B. Swinfen, 'Review of *Imperial Appeal, The Debate on the Appeal to the Privy Council, 1833-1986*, *The Cambridge Law Journal* 47, no. 2 (1988): 302-3, <https://doi.org/10.1017/S0008197300118057>.

⁸⁸ Thompson, "The 'Washminster' Mutation."

which only has an uncoded / unwritten constitution that stems from separate, unwritten and written parts, does have a codified constitution as well as conventions.

In many ways, the distance of the United States from Europe in the 1800s and 1900s is similar to that of England and Great Britain being islands off continental Europe in previous centuries, which were eventually conquered by technology and speed of travel. Therefore, each were allowed to develop more independently whilst having knowledge of the other's presence and connection to the rest of the world. For America, entering a European war was more of a choice, and the English Channel provided a similar buffer for England and other nations and territories of Great Britain in earlier centuries. For America, the idea of American Exceptionalism proliferated and provided the nation with an ideology to back up its worldview that it was its right to expand via extended Manifest Destiny.⁸⁹ Though Tony Collins writes extensively about the lack of actual exceptionalism as uniquely different from other nations of power, the belief by Americans was still certainly the case, and may still be the case, though the paradigms have changed since the concept's adoption.⁹⁰

The belief in the idea meant that the United States, less encumbered with the dynamics between nations in Europe leading up to and after the 1890s, was in a position to focus on its own methodology of expansion.⁹¹ Its military and wealth, as a nation and its individuals in terms of the latter, was not only to be used for defense, as was in the case for the war of 1812, but in other instances.⁹² Commodore Perry, via ultimatum, unilaterally

⁸⁹ Julius W. Pratt, 'The Origin of "Manifest Destiny"', *American Historical Review* 32, no. 4 (1927): 795–798, <https://doi.org/10.2307/1837859>.

⁹⁰ Tony Collins, 'Unexceptional Exceptionalism: The Origins of American Football in a Transnational Context', *Journal of Global History* 8, no. 2 (2013): 209–230
Collins, "Unexceptional Exceptionalism: The Origins of American Football in a Transnational Context | Journal of Global History | Cambridge Core."

⁹¹ David Healy, *US Expansionism: The Imperialist Urge in the 1890s* (Madison, WI: University of Wisconsin Press, 2011).

⁹² Donald H. Kagin, 'Monetary Aspects of the Treasury Notes of the War of 1812', *Journal of Economic History* 44, no. 1 (1984): 69–88.

forced Japan open from its bicentennial of *Sakoku*, a ban on any and all foreigners entering the nation from the rest of the world.⁹³ Today, not even North Korea has policies that entirely prevent foreigners from entering its nation.⁹⁴ Yet, with the arrival of Perry came not only the death of the Shogunate and Tokugawa Edo period/bakufu, but also the rapid industrialization of the nation in the Meiji period.⁹⁵ Finkelston interestingly brings up the concept that Commodore Perry's American ships were seen by the Japanese as the 'Black Ships', which acted as a force to open the nation.⁹⁶ The comparison of America's Great White Fleet, by painting the ships as a symbol of peace, was a message not lost on Japan just decades later in 1908.⁹⁷ Moreover, the role of Sumo as a sport at and after the arrival of the Black Ships played a pivotal role in the narrative of foreigners now entering and corrupting a 'pure' Japan. Indeed, there was strong anti-foreign sentiment even including but not limited to Sumo wrestlers being depicted as manhandling military uniformed *gaijin* (derogatory for 'foreigner', literally meaning 'outsider/outside person').

Hones and Endo make the following point to note that, though viewed as peaceful, the intentions of the Great White Fleet did also have a self-serving purpose, albeit different from Perry's Black Ships. "As the very name of the Great White Fleet suggests, the US continued

<https://doi.org/10.1017/S0022050700031375>Kagin, "Monetary Aspects of the Treasury Notes of the War of 1812."

⁹³ Tashiro Kazui and Susan Downing Videen, 'Foreign Relations during the Edo Period: Sakoku Reexamined', *Journal of Japanese Studies* 8, no. 2 (1982): 283–306, <https://doi.org/10.2307/132341>.

⁹⁴ Michael W. Morris, Krishna Savani, Shira Mor, and Jae Cho, 'When in Rome: Intercultural Learning and Implications for Training', *Research in Organizational Behavior* 34 (2014): 189–215, <https://doi.org/10.1016/j.riob.2014.09.003>.

⁹⁵ Matthew Prevo, 'The End of *Sakoku*: How the Cutthroat Diplomacy of Commodore Matthew Perry Unlocked Japan', *Towson Journal of Historical Studies*, 13 (2016): 15–24.

⁹⁶ Sheila Hones and Yasuo Endo, 'History, Distance and Text: Narratives of the 1853–1854 Perry Expedition to Japan', *Journal of Historical Geography* 32, no. 3 (2006): 563–78, <https://doi.org/10.1016/j.jhg.2005.10.008>.

⁹⁷ Ted Finkelston, 'The "Black Ships" and "Sakoku": Commodore Matthew C. Perry's Expedition to Japan, *Asian Studies Module*, 1997, <https://eric.ed.gov/?id=ED407969>.

to exercise an apparently irresistible power at this time in its asymmetrical relationship with Japan: where Perry's Black Ships had once forced Japan into the Pacific world, Roosevelt's Great White Fleet was now trying to threaten Japan out of it. Japanese officials extended an apparently whole-hearted hospitality to the fleet, even singing a welcome song especially composed for the occasion."⁹⁸ The culmination of which came about when in just two decades, Japan approached bankers in London to obtain a loan to fight the Japanese-Russo War; all requests were denied.⁹⁹ The Japanese delegates went to New York to try their luck, which they did find. Support from Jacob Schiff was found and though, as a banker, he explained why he agreed with his English banking counterparts as to why not to lend money, he decided to do so anyway as a Jew.¹⁰⁰ His feelings were similar in that, though the Russian Empire of 1905 was a perceived threat to stability in Europe, they knew the Russians where they did not know the Japanese.¹⁰¹ However, he despised the actions of the Russian Empire and its direct treatment towards Jews there in the form of persecution, pogroms, and murder. As Muraoka writes, '... he [Schiff] alone made it possible for Japan to secure a loan in America'.¹⁰² Therefore, the loan was made and the Japanese did win; the direct result was an ally in Japan, arguably until the lead-up to Pearl Harbor, at least as far as Werner argues.¹⁰³

Australia Post-Federation

Yet as this lead-up became more evident from the point of view of Australians, with England's preoccupation with European affairs, Australians and felt that its importance had

⁹⁸ Hones and Yasuo Endo, 'History, Distance and Text'.

⁹⁹ Best, "Financing a Foreign War."

¹⁰⁰ Gutwein, 'Realpolitik or Jewish Solidarity?'

¹⁰¹ Mina Muraoka, 'Jews and the Russo-Japanese War: The Triangular Relationship Between Jewish POWs, Japan, and Jacob H. Schiff' (PhD thesis: Brandeis University, 2014), <https://www.proquest.com/docview/1504276255/abstract/A9974276C855455CPQ/1>.

¹⁰² Muraoka, "Jews and the Russo-Japanese War."

¹⁰³ Werner Levi, *American-Australian Relations* (Minneapolis, MN: University of Minnesota Press, 1947).

become diminished in the United Kingdom's duties to protect them as well, which, in the 20th Century, notably began after Japan defeating Russia in 1905.¹⁰⁴ Though the United States took little public issue with the Japanese Empire's expansion through the Pacific after its victory in the Japanese-Russo War, it was noticed by Australia.¹⁰⁵ Privately, though the loan to Japan came from an American and not the federal government, the United States' legislature and President Theodore Roosevelt began to take issue as a result of Japan's military win over a European power.¹⁰⁶ As expanded on in chapters two and three, Roosevelt would also be pivotal in American football's evolution, but here, where Australia's politicians brought their concerns about Japan to the United Kingdom's attention, they felt that their national protection had fallen on the deaf ears of those whose duty it was to protect them.¹⁰⁷ Relations between Australia would later further sour with the United Kingdom as a result of its management of Australians in World War I, notably with battles such as Gallipoli, although, even before then, the United States made overtures towards Australia and other nations in its region, including but not limited to the visit of the Great White Fleet in 1908.¹⁰⁸

It was clear that Russia's loss in the Japanese-Russo War left a power-vacuum in the Pacific, which elicited concerns throughout the region as to who would take Russia's place. In this case, instability in a divided China, which would continue through and after World War II, and with no other nation of the region having the military success against a European power, meant that Japan would likely take this position. On 7 July 1908, the fleet set out from San Francisco bound for Hawaii, Australia (Sydney, Melbourne and Albany) and New

¹⁰⁴ Henry F. Pringle, *Theodore Roosevelt* (New York: Harcourt Brace and Company, 1956).

¹⁰⁵ Levi, *American-Australian Relations*.

¹⁰⁶ Pringle, *Theodore Roosevelt*.

¹⁰⁷ Jardins, *Walter Camp*.

¹⁰⁸ Greenwood, "The 1908 Visit of the Great White Fleet."

Zealand. The tour then continued to circumnavigate the globe, continuing to the Philippines (a strategic nation for the United States), and then Yokohama, Japan. Contextually, in 1907, there had been the Pacific Coast race riots, in which people from and/or of East and South Asian ancestry were attacked by predominantly Americans and Canadians of white, European ancestry. In San Francisco, the target was mostly Japanese-focused, whereas it was Chinese in Vancouver. Not only was there an agreement of sorts between the nations to curb the violence to reduce the number of immigrants from Japan, but the arrival of the Great White Fleet reduced tensions with Japan as the visit was intended and understood to be friendly.

For Australia, the lack of support from the United Kingdom and the active visitation of Sydney, Melbourne and Albany by the Fleet showed America's support for its sphere of influence spanning the Pacific and Indian oceans. This visit not only signified U.S. support for the development of Australia's navy but also underscored the emergence of an English-speaking alliance in the region. As noted in *Great White Fleet to Coral Sea: Naval Strategy and the Development of Australian–United States Relations and the Rise of Australian Defense Independence*, the fleet's arrival marked a pivotal moment in Australia's strategic realignment.¹⁰⁹ Though the visit to Japan occurred after the visits in Australia, the support shown by America's troops sent a clear message that they were there to support the development of Australia's navy and, in its own right, support for its own English-speaking contingent/faux-Empire in the Pacific and around the world.¹¹⁰ Sean Brawley and Chris Dixon discuss the further social influences and also from the presence of the Great White Fleet regarding but not limited to Australian's exposure to African Americans.¹¹¹ Moreover, they reference Robert Hart's *The Voyage of the Great White Fleet, 1907-1909*, which

¹⁰⁹ Michael Brooke, "The Great White Fleet."

¹¹⁰ Michael Brooks, 'The Great White Fleet', *Royal Australian Navy News*, 4 September 2008, p. 16, <http://nla.gov.au/nla.newsarticle267254134>.

¹¹¹ Brawley and Dixon, "Jim Crow Downunder?"

meticulously details the relationship between Australia and the US Navy's stopovers in Sydney, Melbourne, and Albany (Western Australia).¹¹² For perspective, Australian Federation only occurred less than a decade prior to the US Navy's Great White Fleet making its Australian voyage.

As Werner Levi wrote, 'Australians had rationalized ... it was better to have Japan as an ally than an assailant'.¹¹³ Moreover, he too acknowledged that this goal still required the building up of the Australian Navy.¹¹⁴

The United Kingdom's actions in cozying relationships with the United States were evidence of empirical decline, and thus a new form of empire was needed, an English-speaking one with America as a contributor. America was also creating its own kind of empire, wherein nations were in need of its assistance, sometimes as a result of the United Kingdom not providing previous support. These actions can be in part explained because America had experienced the United Kingdom's intention to assuage tensions between the nations. It had been over 80 years since the War of 1812, but there still remained a feeling of anti-British sentiment in America. The Great Rapprochement was therefore a way for the United Kingdom to grow a new form of empire alongside the diminishing strength it once had in its formal empire. This new form of empire based around nations of English-speaking diplomacy across the Atlantic also extended to military/economic dynamics across the Pacific, which became the new paradigms across the hemispheres; the former focused between the United Kingdom and United States and the latter between the United States and Australia, amongst other nations in Australasia.

Though a sign of military power, both emerging and continuing, the Great White Fleet was painted white as a demonstration of peace, and represented an attempt to reassure

¹¹² Hart, "The Voyage of the Great White Fleet, 1907-1909."

¹¹³ Levi, *American-Australian Relations*. Levi.

¹¹⁴ Levi, *American-Australian Relations*.

nervous allies of America's emerging naval power.¹¹⁵ The painting of the ships was understood not only by the Australians, who saw this as a gesture of America's interest in the nation and their region, but also by the Japanese when they arrived in Yokohama.¹¹⁶ However, naval might was not the only way in which the United States and other nations such as the United Kingdom and Australia were attempting to promote global stability. Sport was also being used as a means towards greater world peace. As observed, 1908 was both a year for military and sports diplomacy as the Olympics were also taking place. The Olympic Games and other forms of sport are a way not only in which nations compete against one another, but they also act as a strong area of focus to understand how these countries communicated and compromised (or not) with one another for the purposes of both education and best practices as well as international relations. In summation, Schiff's loan to Japan allowed them to win the Japanese-Russo War, which created a vacuum of power in the Pacific, causing concern for Australia, which was ignored by Great Britain, and thereby driving the southern continent nation into the all-too-willing arms of the United States.

Background to Broader Concepts in British Empire and American Sports Competition

Until the modern Olympic Games were instituted, diplomacy via sport in the 19th century tended to have its origins through the football codes that originated and were played at certain English elite public schools. This scenario also included the playing of cricket as well as other smaller athletic competitions. Examples in the football codes, where boys were taught to be men to lead the empire at England's elite public schools, can be seen across the schools. Though Harrow had its code and Eton the wall and the field games, Cambridge's

¹¹⁵ Australian War Memorial, 'The Great White Fleet' (Exhibition), 5 December 2019, <https://www.awm.gov.au/visit/exhibitions/forging/security/fleet>.

¹¹⁶ Charles E. Neu, *An Uncertain Friendship: Theodore Roosevelt and Japan, 1906-1909*, First Edition (Cambridge, MA: Harvard University Press, 1967); Hones and Endo, "History, Distance and Text."

rules (association football) and rugby's football were the ones that proliferated most successfully. Much of this is covered by Tony Collins in his many books, articles and writings which, *inter alia*, explain why association football was more successful than rugby in the way it flourished both throughout and beyond the British Empire. However, it is also reasonable to assert that there had always been forms of sport and athletics in the context of competition and diplomacy. Examples include the United States and, by extension, Canada, having a certain degree of sporting isolationism. For example, though the two nations did begin with rugby union traditions, by the late 1870s, Canada had developed a flat line scrimmage, as seen in Toronto versus In Michigan, and the United States began to adopt this Canadian version of 'Canadian rugby/football' in 1874 when Harvard played McGill. Moreover, though the first international cricket test match was the United States against Canada in 1844, and baseball, which would only become largely popularized during the American Civil War, had not only taken what little place it had in America, it had professionalized and even became the template for professionalization in the Football Association in England.

In this and other ways the two predominantly Anglophone nations of North America had a disconnect from Europe when it came to other football codes, but they were still connected via traditional athletics. Wray Vamplew also notes how today's 'rule-governed practice' pertaining to sport are both prescriptive and proscriptive; this can be said of both the Anglophone North American nations along with European counterparts, and even those such as India in its relation between the Indian Premier League (IPL) and the International Cricket Council (ICC).¹¹⁷ It is important to keep this in perspective as these rules first began to be

¹¹⁷ Wray Vamplew, 'Playing with the Rules: Influences on the Development of Regulation in Sport', *The International Journal of the History of Sport* 24, no. 7 (2007): 843–871, <https://doi.org/10.1080/09523360701311745>.

formalized due to the influence of English elite public schools in the nineteenth century.

To further the point, baseball's hegemony had been so strongly established that by 1903, the National League and American League began playing the so-called 'World Series' since they were the two best leagues in the world. In essence, baseball was America's sport of nationalism and pride. Some have said that the naming was also in alignment with America's worldview at the time, but this is not known to be the primary reason.

'You really have to look back at the way most people in the United States saw the world in 1903, the year the 'World Series' championship was created', Joseph A. Reaves, a baseball writer, told National Public Radio. 'The Gilded Age was giving way to an era when the United States would dominate the globe militarily, economically and politically. No one could beat the United States militarily. And surely no one could beat the U.S. at its own game'.¹¹⁸ Yet, we see athletes from around the world coming to America to earn a living as coaches in the 1880s and certainly 1890s and onward. Athletes moving to the United States for greater financial opportunity was the case with Pat O'Dea's brother, Andy, who had moved before him to become the rowing coach at the University of Wisconsin in Madison.¹¹⁹

Though there are parallels drawn between Australia and the United States, it is important to distinguish the genuine from the superficial. In terms of sport, one could argue that American football is representative of the American belief in American exceptionalism, and the same can be applied to Australian Rules football in a form of Australian exceptionalism. There is agreement with Collins that the concept of American exceptionalism is a flawed premise to begin with, and not to be relied upon even if many people's actions are impacted by believing in it to be true.¹²⁰ Ian Tyrrell further explores, not

¹¹⁸ Charlotte Carroll, 'Why is it Called the World Series?', *Sports Illustrated*, 5 October 2017, <https://www.si.com/mlb/2017/10/05/world-series-name-origin-why-called>.

¹¹⁹ Revsine, *The Opening Kickoff*, 2014.

¹²⁰ Collins, 'Unexceptional Exceptionalism': 209–230.

just American exceptionalism, but the result in those that continue to believe it and those that reject it to the extent of saying that it is entirely unexceptional.¹²¹ Furthermore, claiming American football is an extension of something less than reliable would be an error. American football and Australian football are merely extensions of adaptation to local surroundings based on the rugby football code. With American football, it is not a case of exceptionalism because the game was introduced via the already modified version of rugby rules in the McGill versus Harvard match. Both America and, even more so, Australia, were isolated from Great Britain for geographic and political reasons, but Australia still managed to maintain the traditions of cricket and both rugby codes. As a result, only using American and Australian football in overarchingly representing any sort of national exceptionalism or indication of isolation is ill-advised. It is important to note that Steven Pope acknowledges that, assuming it is only an illusion, it is not just the average person that has been fooled or seduced by this concept but academics as well when stating, “following on this cultural explanation is the fact that historians (including sport historians) have been seduced by the interpretive talisman that is American exceptionalism.”¹²²

Nielsen writes about the nature between the North American ‘cousins’ of the United States and Canada in their relationship with Australia, including but not limited to the presence of the aforementioned Great White Fleet. He also points out how Cashman and Hughes also acknowledge this, but also states how, ‘US sport and culture have had a significant influence on Australian sport from the mid-nineteenth century’.¹²³ This research is unique to that of prior writings in that it also incorporates a focus on the uniquely different nature of at-will employment law in the United States and how its influence has played a part in the further development of sport both on and off the field in America and abroad.

¹²¹ Tyrrell, “American Exceptionalism.”

¹²² Steven W. Pope, “Rethinking Sport, Empire, and American Exceptionalism.”

¹²³ Nielsen, *Sport and the British World, 1900-1930*.

Structure of the Thesis

As noted in the introduction to this thesis, the word ‘Americanization’ comes to mind when discussing the influence of American culture on other nations. However, this term is not limited to the sporting world. As previously mentioned, ‘Americanization’ also applies to business, culture, and social mores, with much of its relevance and meaning related to how law shapes these and other aspects of daily life.

Therefore, in terms of the structure of the thesis, the first major chapter will address the history of America’s unique position as a post-industrial nation, predominantly bound by at-will employment laws. The above paradigm applies to the history of how this came to be the standard, implications of the process, the history that predated at-will employment as the de facto law in all states but for Montana, and whether or not its existence is one based on appropriate legal precedence or not. The concept of being able to fire someone without good cause is a practice not associated with other post-industrial nations from a technical and legal standpoint, though these practices may still occur despite it being illegal.

The topic has been selected because it permeates cross-cultural, international relationships in business, governance and even worldviews, with professional sport a strong area of focus in which to make relevant observations. The dynamic between athlete and team, team and league, league and players’ association, and so on are not dissimilar to employer and employee/contractor, company and parent corporation, and parent corporation and unions. Simultaneously, the sport entertainment industry is large enough to provide a strong enough sample pool. Moreover, sport entertainment has been highly observed and reported on in popular media, with a growing amount of analysis from the academic and researcher sectors. The sport field provides ample information and reflection from a variety of reputable sources, even as early as the 1850s, which is germane to this research since the

earliest cited legal case in *Martin versus New York Life Insurance* (1895) comes from 1851.¹²⁴

As the author of the thesis, it is my genuine assertion that there is a dearth of cross-cultural and international understandings that continues to this day in the worlds of business and governance. In my professional experience, I have been hired for many companies to quite literally be the conduit and proverbial translator between two international offices, even though this occurs within the same company. I have also observed how English, despite being today's *lingua franca*, also acts as a veneer for stark, sometimes irreconcilable, underlying cultural differences. One case in point is that I had worse culture shock moving to Los Angeles from New York than when I had lived in Japan, an experience other have also echoed many times. My conclusion by observation in these instances is that there is no presumption when we travel to a country where the language is not the same as ours, whereas we, consciously or subconsciously, make the mistake of assuming greater similarity between nations and cultures where everyone is speaking the same language. As a result, there is much unnecessary effort spent on reconciling these non-apparent but fundamental differences that are sitting beneath the surface of our English-speaking exteriors. Because there is an opportunity to have both academic and at-large impact with this research, I chose to pursue this angle, covering the law and how it evolved, historical figures between Australia and the United States, along with changes to the laws of the game in rugby league.

Before going further, it is critical to understand that, firstly, firing someone has a specific legal definition different from other terminations of business relationships, such as being laid off due to downsizing or being made redundant. Moreover, there are many types of business relationships between the person doing the hiring/firing and the person being

¹²⁴ *De Briar v. Minturn* (Westlaw, No. 1 Cal. 450, 1851 WL 542, California Supreme Court, June 1851).

hired/fired, and each is defined by different rules of engagement and disengagement such as, but not limited to, employer/employee (full-time or part-time) along with contractors. In Australia there is also the separate category of ‘casual employee’, which most similarly mimics the nature of all employees in the US (outside of Montana) in that they can be fired with greater ease than an employee but, in the Australian model, do get some benefits, including their wage being 25% more than their full/part-time employee counterparts, but with the greater risk of non-guaranteed hours.¹²⁵ The above third category is not the case in Europe but is still integral to the research as it provides a middle ground between the stringencies of the post-industrial European continent to that of the greater firing flexibility of the United States. In this sense, Australia and America are similar in that they have each departed from absolute mimicry of the United Kingdom’s Common Law, and each stem from and has been adjusted accordingly based on their own local sentiments. The aforementioned explanation, though short, is sufficient here as it will be expanded upon in the following chapter.

In doing so, the first major chapter examines what this process of decoupling from traditional English Common Law looks like from the American perspective a bit more than that of Australia, simply since it is so radically different to the status quo in which both originated. However, the chapter will also take the time to evaluate the outlier status of Australia when compared to the United Kingdom and other post-industrial European nations in light of its unique casual employment laws. Since Australia’s Federation is in 1901, significantly later than America’s 1776 unification, but still only six years after the case of *Martin versus New York Life Insurance*, it is interesting that the nature of casual employment soon after evolved but has always had hiccups in universal enforcement along the way.

¹²⁵ See Hahn, McVicar, and Wooden, “Is Casual Employment in Australia Bad for Workers’ Health?”

Simply put, it is a caveat in Australia's otherwise traditional legal methodology for employment law and has since been evolving, though it remains porous in the country's ongoing balance of Westminster- and Washington-based legal identity in what Thompson calls the 'Washminster mutation'.¹²⁶

Consequently, the impact the lockdowns of 2020, 2021 and 2022 had in providing employers to dispose of employees that they otherwise would have liked to fire but were unable to previously but now do so as a result of the plausibly deniability of legitimate downsizings and layoffs that occurred during these years becomes more visible. Arguably, the existence of casual employment and at-will employment provided greater flexibility in Australia and the United States respectively to part ways with workers through more methods compared to other post-industrial nations. Yet what remains clear is the still notably greater precarity in American employment life over that of other nations, including Australia.

All of this is relevant to better understanding the connection here to the other chapters. It is not just that 1895 was the year of at-will employment's introduction in the United States, along with the beginning of rugby league in England, Pat O'Dea's departure from Melbourne to the United States followed by his involvement at two clubs (Melbourne and Essendon), along with nine other clubs departing the VFA in 1896 to create the VFL, but also the representative nature of international and cultural exchange through government, business, and sport in a period known as 'The Great Rapprochement' that commenced then. As mentioned, this period ('The Great Rapprochement') included the first modern Olympic Games, which also took place in 1896. For England in the Atlantic, it became about making amends during a time of colonial decline, with the goal of creating a new form of English-speaking pseudo-empire of sorts. For America, it was not only the beginning of its own form

¹²⁶ Thompson, "The 'Washminster' Mutation."

of economic empire to its east, but also to its west, including the Great White Fleet, which brought both cultural and sport exchange wherever it went, including Australia.

All of these encounters and exchanges quite clearly intertwine with the zeitgeist of just how international and open communications were during these times. Not only was there a hemispherical sharing of information, knowledge and culture in the elite and high-concept circles but also in those areas that are open to the masses, such as sport. Moreover, an interest in the other is clearly demonstrated subsequently in terms of, but not limited to, records in the VFL archives related to President Theodore Roosevelt reaching out to their organization, along with a copy of the VFL constitution being housed in the Walter Camp Archives at Yale University. Whether or not we understand if anything Roosevelt or Camp learned from the VFL was implemented is not necessarily of importance, because their search and being open to looking abroad is important in demonstrating their willingness to do so. By extension, it may be viewed as a small glimpse into the zeitgeist that was occurring during their attempt to save American football.

In some ways, these trends continued throughout the 1920s, with Edward ‘Carji’ Greeves, the Geelong Australian Rules football player, being brought over to coach and play for the University of Southern California. Indeed, aspects of such developments are still happening today, with groups such as ‘Prokick Australia’, and the recruiting of Australians to play American football at various universities of the United States because of their great kicking skills, a scenario that began with Pat O’Dea more than 100 years ago.

Related to the concept of Australian-American exchanges of culture, sport, business, and politics, the two subsequent chapters examine how Australia’s shift away from England, and Great Britain at large, towards the United States is rooted in the same period of (1895 to 1908), and benefits from using rugby league as the area of focus, which is a clear correlative-causal relationship that exists and presents the above shift in a clear, linear manner. Rugby

league breaking off from rugby union in 1895 is but one of many sports and industries that began their breakaway from the establishment of England's leisure class. The Football Association had done so in 1885 when it began to emulate National League baseball with player payments and, still existing to this day, no salary cap. The same can be said of other sports and leagues across the world, such as the clubs that broke off from the VFA in 1896 to form the VFL (though player payments did not materialize until May 1911). Though this is also an area that should be further developed and researched, the focus of these particular chapters is to examine the origin of this shift using rugby league (beginning in England) and its ongoing evolution and impact in Australia as the new superpower of the game to date.

Rugby league's history as a separate code begins in 1895 at the George Hotel in Huddersfield, but the game's history is part of pre-split rugby. From an Australian perspective, it is surprising that the game, as played in England prior to the 1908 arrival in New South Wales, was the same as rugby union for the next 10 years and up until 1906. In essence, rugby league's only defining difference was based around administration and player payment. Yet, when rugby league arrived on the shores of Australia, it already had had its own unique rules for two years. In this sense, Australia's first interaction with the game was one of something entirely separate from the game they knew as rugby union. Therefore, Australia and England's relationship with the game is different, but both are part of that greater trend away from London's greater influence on the north of England and its impact on its former colonies in the Southern Hemisphere. Here, the impact of the United States begins to fill the gap in each region's continued practice of looking abroad for best practices and other influences.

The next chapter will approach the relationship during an overlapping time period of 1895 to 1908, but this time it is done by means of an Australian individual in the United States. Pat O'Dea's story commenced well before 1895, when he left Melbourne for the

United States via Canada, and it is important to understand the world he came from prior to doing so. As Australia's only member of America's football Hall of Fame, Pat O'Dea's story in Australia, America, sport and professional life illustrates not only the advantages and adjustments provided to him as a person and athlete at this time in history, but also highlights common misconceptions that many have of the United States, even when living there.

Hence the chapter on Pat O'Dea will focus on his background and initial transition into life and the culture from country Australia to Melbourne. The personal background to his journey, beginning as it does in Kilmore, Victoria, is critical to understanding the Australia that he lived in, which has further applications and extrapolations to today's Australia, even, in some cases, concerning the same places and locations, albeit, around 150 years later. It is surprising how many of the paradigms from then are still relevant today.

The same can be said for the penultimate chapter, since this focuses on O'Dea's transition into American life during and post his football career. As can be seen, at-will employment is relevant in his post-football life in ways quite unexpected but germane to his case as well as to future Australians who hop across the Pacific Ocean for opportunities in sport, the academy, and professional work life. Examples of O'Dea's trajectory in America from Australia do continue to this day. In fact, the trend of Australian athletes moving to the United States extended to those who came after, such as the aforementioned 'Carji' Greeves in the 1920s (Geelong/University of Southern California). Clearly there has been an evolution since then, with those like Colin Ridgway in the 1960s (Olympian/Dallas Cowboys), and Colin Scotts (Sydney rugby union/University Hawaii, St. Louis/Arizona Cardinals, and Houston Oilers), Darren Bennett (West Coast and Melbourne/San Diego Chargers and Minnesota Vikings) along with the likes of Ben Graham (Geelong/NY Jets, Arizona Cardinals and so on), Sav Rocca, and others.

Conclusion

As Americanization has continued, so too has the process of Australian athletes going to the United States to play football. This process has evolved tremendously in the last 13 years, with Nathan Chapman and John Smith of 'Prokick Australia' creating a whole new, sustainable pathway for Australians going to the NCAA for football, whilst getting an education they may not have achieved in Australia, but for America's interest in student athletes, just as in Pat O'Dea's era. Ideally, the careers and circumstances of others who have followed in O'Dea's footsteps can be presented in future relevant case studies, thus building on the research for this thesis. Nonetheless, Pat O'Dea's historical experiences and cross-cultural ties still serve as an important template for those Australians who may be considering a sporting career in the United States, especially in terms of the influence and interactions they may have in the arenas of sport, business, and, by extension, education. Both games have among their roots English heritage, however the fracturing of the game into different codes produced different outcomes. Furthermore, the commencement of at-will employment doctrine in the United States dovetailed with the notion of a work culture in which anyone could be let go at any moment, which became a central component of the culture of American professional sport.

It is crucial that these preceding elements are synthesized such that the picture of Australian rules football can be examined, particularly as it evolved in connection with the greater influence of the United States' celebrity culture and the notion of individual players being liable to become very wealthy, i.e., an elevation of the individual over the entire team.

Pat O'Dea's unique story is crucial to this understanding, and though his narrative shall be explored in later chapters, it is noteworthy to connect his story with at-will employment, his place in Australian sport history, as well as his pioneering the notion of Australian athletes coming to America to seek fame and fortune. However, O'Dea's case is just one

among several that highlight the evolution of this transnational dynamic. The experiences of other Australian athletes, coaches, and administrators in the United States, whether in football, basketball, or other professionalized sports, serve to further illustrate the nuances of Americanization and the reciprocal influences shaping both sporting cultures. These case studies provide insight not only into the movement of individuals but also into the broader institutional and economic transformations driven by cross-cultural sporting exchange. This also demonstrates the strength of employing the case study methodology in achieving the aims of this research, and so helps us go some way to fill in the gaps in the existing historiography.

Chapter 2:

The History and Effects of At-Will Employment in the United States

This chapter concentrates on exploring the notion of ‘at-will’ employment, a standard practice in the American workplace, and, therefore, in sports employment, by which the vast majority of American workers are not afforded the luxury of contracts or other protections ensuring their ongoing employment. How this became such a feature of the American professional culture shall be explored, as well as its application in sporting practices domestically, as well as how at-will employment practices eventually became a part of the greater process of Americanization/Americanisation worldwide. Among the key texts consulted shall be Charles Constantin’s ‘The Puritan Ethic and the Dignity of Labor: Hierarchy vs. Equality’, which explores the idea of “dignity through labor” that has informed the American DNA since its start, and thus has come to bear on sports employment as well. Another critical text to be explored is LeRoy H. Schramm’s ‘Montana Employment Law and the 1987 Wrongful Discharge from Employment Act: A New Order Begins’, published in the *Montana Law Review*; this work is important in that Montana is the only state in the United States that does not operate under at-will provisions of employment, and Schramm’s expansion of this concept is crucial to this research’s larger description of at-will employment provisions as they apply to sport. How these notions impacted Australian athletes who came to play in the United States is also explored, as is the symbiotic relationship by which American codes and employment practices influenced Australian practices in turn.

Introduction

When focusing on the experiences of Australians competing in American football, it becomes clear that the working culture of the United States of America, and especially the ability of organizations to delist players without notice, was a significant issue. There is an

ever-present conscious or subconscious awareness of losing one's job, and this stems from America's unique status as the only industrialized nation that does not require good cause to fire someone. This legal status quo was cemented into law in 1895 with *Martin v. New York Life Insurance Co.*, but the story is much more complicated and, reflecting on the late David McClelland's needs from his 'Theory of Motivation', provides a strong context in which to contextualize the above. The fact that the NFL is also an at-will employer means that football players, including during their time in the NCAA, provide a strong area of focus in which to analyze the information, and even extend it to the average American employee.

However, there is limited literature regarding the history of the laws of at-will employment in the United States, and the effects that these laws have had in shaping American culture. This chapter will therefore explore the history of these laws and their effects on American culture. As to how these laws relate to the subject matter of Americanization, inevitably, nations fall into the spheres of influence of other nations that are larger than they are, typically based on military, economic, cultural and other morays. In this sense Australia is connected to the United States by far more than just television programming, which too has soft power influence, but so does the way in which business is conducted. Though Australia has no at-will employment laws, unlike Europe, it does have casual employment status, which leaves the country more susceptible to the greater employment precarity that is seen in the United States, as further illustrated below.

In the United States, there is a prevailing assumption that the grind of work and society is the direct result of cultural norms established by the Puritans after arriving at Plymouth Rock, Massachusetts, in December 1620. While widely believed, this assumption is simply incorrect.¹²⁷ Allowing for employees to be fired without good cause does play its

¹²⁷ Charles Constantin, 'The Puritan Ethic and the Dignity of Labor: Hierarchy vs. Equality', *Journal of the History of Ideas* 40, no. 4 (1979): 543-561, <https://www.jstor.org/stable/2709358>.

role in the establishment mythos of the United States. Rather, it has been a continuing, albeit lessening contributor to the nature of American society. In this sense, the United States is the only industrialized nation to have this sort of at-will employer/employee relationship, but it was not introduced until over 250 years after the landing of the Puritans. The assumption that values of the Puritans still reign supreme in dictating American culture would require that one ignore, or at least undermine, countless other major cultural contributions contributed to American culture from other races, religions, and groups over the past 400 years.

At-Will Employment History in American Culture

Before moving on to explain how the laws governing the way in which American culture has been shaped by 1895's implementation of the at-will employment doctrine from 1877,¹²⁸ it is important to first understand why such a prevalent belief in Puritan origins is *not* the primary factor in defining the overarching culture in the United States today. Though incorrect, one could argue that the pervasiveness of this original Puritan culture in the United States is still present in American work culture when compared to other industrialized nations. Charles Constantin demonstrates how, even by the end of the American Revolution (1775-1783), over 163 years after the Puritans' arrival, the American ethics and 'attitudes were no longer dictated primarily by religion because intellectual leadership was firmly in the hands of statesmen who thought about politics'.¹²⁹ Moreover, he quotes Edmund S. Morgan, who emphasized how 'the Puritan Ethic as it existed among the Revolutionary generation had in fact lost for most men the endorsement of an omnipresent angry God. The element of

¹²⁸ Linder, "The Employment Relationship in Anglo-American Law."

¹²⁹ Constantin, 'The Puritan Ethic and the Dignity of Labor.'

divinity had not entirely departed, but it was a good deal diluted'.¹³⁰ Likewise, Morgan's quotation strongly illustrates this mentality:

Once called to an occupation, a man's duty to the Maker Who called him demanded that he labor assiduously at it. He must shun both idleness, or neglect of his calling, and sloth, or slackness in it. Recreation was legitimate, because body and mind sometimes needed a release in order to return to work with renewed vigor. But recreation must not become an end in itself. One of the Puritans' objections to the stage was that professional players made recreation an occupation and thereby robbed the commonwealth of productive labor. The emphasis throughout was on productivity for the benefit of society.¹³¹

That is to say that the emphasis on 'diligently working at productive tasks'¹³² still remained in the late 1700s. This form of 'non-vital' work is equivalent to those who were shunned for their role as professional actors on the stage, a career not considered productive work or as a contribution to society, now applicable to professional athletes and not just those of the stage.

In no uncertain terms, the Puritans believed that working oneself to death would earn them a place in heaven.¹³³ While many contemporary Americans do not necessarily believe they are going to any afterlife, whether good or bad, the culture of 'working oneself to death' remains. However, a more direct explanation may be evident through the law and doctrine of master and servant, which became precedent-setting case law in 1895, despite its flawed reliance on a largely obscure, poorly researched treatise by HG Wood from 17 years prior. It was then that the nature of America's employment culture was formatively shaped in a way that reflected the work ethic of the country's early European settlers. Understanding of the formative and underlying doctrine, as well as its evolution, are requisite, which is the aim of this chapter. Finally, in contextualizing how employee (including athlete) culture operates

¹³⁰ Edmund S. Morgan, 'The Puritan Ethic and the American Revolution', *The William and Mary Quarterly* 24, no. 1 (1967): 4–43, <https://doi.org/10.2307/1920560>.

¹³¹ Ibid.,

¹³² Ibid.,

¹³³ Constantin, 'The Puritan Ethic and the Dignity of Labor'.

within this legal paradigm, the latter part of this chapter will also introduce McClelland's 'Theory of Motivation'. His findings will also be discussed more directly in the chapter as it concerns exploring the experiences of the Australian athletes who have gone to the United States to participate in the NFL and NCAA football.

Until 1895, the nature of the employer/employee relationship in the United States was not very much unlike that of other industrialized, English-speaking, common-law countries. In fact, this relationship, formerly known as master/servant, was fairly universal in terms of the rights and responsibilities of employers and employees.¹³⁴ But one case, under suspect circumstances, changed the course of employment law, and the culture and behavior of those in the United States relative to other industrialized nations. Where other countries have increased rights for employees, the United States has, at best, passively allowed for the reduction of these rights and, at worst, actively diminished them in favor of stronger business tactics that allow for the sacking of employees without good cause.¹³⁵ St Antoine's statement is consistent amongst both statute-based civil law nations and common law countries whose laws are based on English tradition. The year 1895 was the first time that a United States' Supreme Court (court of second appeal) ruled in favor of what is now known as the at-will employment doctrine.¹³⁶ As a result, the United States would become the first, and, now, only, industrialized nation that allows for the firing of employees without good cause. The precarity that currently exists and the laws of at-will employment in the entire United States (but for Montana) all resulted from one New York decision that was soon emulated by other states.

To clarify, New York State does not use the term 'Supreme Court' for the most powerful of three levels of courts within its judiciary. Rather, in order from 'lowest to highest', they

¹³⁴ Wood, *A Treatise on the Law of Master and Servant*, 1877.

¹³⁵ St. Antoine, "At-Will Employment."

¹³⁶ *Martin v. New York Life Insurance Company*.

are known as: The New York State Unified Court System's 1; Supreme Court (trial level), 2; Supreme Court – Appellate Division (intermediate court/first appeal); and 3. Court of Appeals (which would be known as a state Supreme Court in many other states within the United States). Ergo, the decision was made in New York State's Court of Appeals, which is what would be called the Supreme Court (just one level under the Circuit Courts) in many other states.

However, with respect to at-will employment doctrine, how this became standard practice is unclear if it is viewed as being entirely premised on prior case law. The backbone of English common law is that courts use prior cases to set precedent in making informed decisions for the current case. In civil law, statutes are made in which the courts best apply the laws to the facts surrounding the individual case. English common law requires that decisions be made from past decisions that guided legal precedent. The longstanding English precedent is not what was applied in *Martin v. New York Life Insurance Company* in New York State's Court of Appeals, where the court relied heavily on H. G. Wood's 1877 treatise, wherein he cited four American cases and two from Scotland that disagreed with his conclusion in favor of at-will employment doctrine.¹³⁷ According to J. Peter Shapiro and James F. Tune in their *Stanford Law Review* article, "Wood offered no analysis to justify the assertion of this rule or his rejection of the English Tradition. He cited only four American cases as authority for his approach to general hirings, none of which supported him."¹³⁸

Even when leaving aside the inapplicable cases that were cited, the prime focus of the case in its decision-making was clearly on Horace G. Wood's 1877 treatise from 18 years prior. The cases cited here were as problematic in their time as they are now when considering that the conclusions reached were in opposition to what Wood argued, namely

¹³⁷ Shapiro and Tune, "Implied Contract Rights to Job Security Note."

¹³⁸ Ibid.

that employers (masters) have the right to fire employees (servants) without good cause. Why these cases were problematic will be examined in greater detail later in this chapter.

Wood was in no way a major influencer or legal text writer, and his opinion should not have held much authority. A case in point is that the biographical information about him is limited, including whether his name was actually Horace Gray or Horace Gay Wood, as evident when searching on Westlaw, Google Scholar, and other legal search repositories.¹³⁹ Though not visible in the footnotes, due to format requirements, it can be noted in the endnotes that citations 4 and 5 from Google Scholar and *Employee Rights and Employment Policy Journal* record him as ‘Horace Gay Wood’, whereas citations 6 and 7 are from a different part of Google Scholar and the University of Detroit *Urban Law Journal*. For such purposes here, he will be referred to simply as ‘Wood’ or ‘H.G. Wood’. Moreover, it is problematic that despite the lack of legal rigor in Wood’s treatise, it nonetheless served as the cornerstone authority to which *Martin v. New York Life Insurance Company* deferred, with subsequent cases relying on the case law established in the aforementioned two examples in continuing the trend of at-will employment, despite its dubious origins.¹⁴⁰ Shapiro and Tune further explained that, ‘Despite lack of authority and analysis, by the beginning of the 20th century Wood’s Rule had become the primary doctrine governing employment duration’. Generally, those courts that adopted the rule did so simply by citing ‘Wood’ or cases citing him.¹⁴¹ Since the courts provided so little analysis, ‘a rationale for the doctrine can be inferred only from the economic and social context in which it developed. At that time the prevalent ideology was laissez faire and its corollary, freedom of contract’.¹⁴²

What is additionally problematic is how additional cases cited in *Martin v. New York*

¹³⁹ Wood, *A Treatise on the Law of Master and Servant*, 1877.

¹⁴⁰ Shapiro and Tune, “Implied Contract Rights to Job Security Note.”

¹⁴¹ Ibid.

¹⁴² Ibid.

Life Insurance Company were from lower, trial, or intermediate courts from states/jurisdictions in different circuits of the United States, such as, *Evans v. Railway Co.*,¹⁴³ *Finger v. Brewing Co.*,¹⁴⁴ *De Briar v. Minturn*,¹⁴⁵ *Haney v. Caldwell*¹⁴⁶; and *Prentiss v. Ledyard*.¹⁴⁷ Traditionally, cases from other jurisdictions are only cited as persuasive but not binding if they are of the same court level, such as one circuit court citing another circuit court's decision. This is not the case here as *Martin v. New York Life Insurance Co.* relies on Wood's treatise and the decisions of out-of-jurisdiction lower courts. Firstly, it is important to note that *Martin v. New York Life Insurance Co.* is not the first case to cite Wood's treatise, but it *is* the first to cite it in the second appeal court (equivalent to a state supreme court). Likewise, *Evans v. Railway Co.* and *Finger v. Brewing Co.* also cite Wood's 'On Master and Servant'.¹⁴⁸

The fact that cases do cite precedent provides an example of good practice in following case law. However, they are largely, if not entirely, based on Wood's flawed treatise, which, as Shapiro and Tune made clear, used cases that did not support his conclusion.¹⁴⁹ One such case that Wood cited was *De Briar v. Minturn*, the same case also cited in *Martin v. New York Life Insurance*. *Evans* and *Finger* also cite 1851's *De Briar v. Minturn* from California, which is a strange choice given that California had only become a US state a year before, in 1850, and that it was then using Spanish civil law, which is uniquely different in the way it applies the facts of the case to an established series of statutes largely without looking towards past legal precedent, which is oppositional to English common law. Aside from overtly discussing *De Briar v. Minturn* in historical context, Shapiro and Tune summed up

¹⁴³ *Evans v. St Louis, I.M. & S. Ry. Co.*, 24 Mo. App. 114 .

¹⁴⁴ *Finger v. Koch & Schilling Brewing Co.*, 13 Mo. App. 310.

¹⁴⁵ *De Briar v. Minturn*.

¹⁴⁶ *Haney v. Caldwell*, 35 Ark. 156, 168.

¹⁴⁷ *Prentiss v. Ledyard*, 28 Wis. 131.

¹⁴⁸ ; *Finger v. Koch & Schilling Brewing Co.*

¹⁴⁹ Shapiro and Tune, "Implied Contract Rights to Job Security Note."

quite well how this and the other cases wrongly cited as support are all inapplicable to Wood's 'Treatise on Master and Servant' and, by extension, *Martin v. New York Life Insurance Co.* In *De Briar v. Minturn* (1851), the controversy concerned the right of a discharged bartender to occupy a room in the tavern after he had been notified to leave by the end of the month. Essentially an action for unlawful ejection, the case touched only tangentially on the employment relationship. It held only that the innkeeper had the right to eject a person living in his house after proper notification. *Tatterson v. Suffolk* (1870) contradicts Wood's assertion.¹⁵⁰

The court found there was no error in allowing the jury to determine the nature of the contract from written and oral communications, usages of the trade, the situation of the parties, the type of employment, and all other circumstances. The third case cited by Wood, *Franklin Mining Co. v. Harris* (1871), found that indefinite duration by itself did not give the employer unfettered discretion to dismiss its employee.¹⁵¹ A mining captain discharged at the end of eight months was allowed to recover four additional months of pay because he had been assured that employment would be stable. The jury thought hiring for a year could reasonably be inferred from the facts. Finally, *Wilder v. United States* (1871) concerned a business contract between the army and private entrepreneurs for the transportation of goods; it had nothing to do with general hirings.¹⁵² A business had an outdated contract with an army quartermaster to transport goods across Minnesota and, at a time when the quartermaster could obtain no other transportation, the company insisted on a new arrangement at a higher price. The Supreme Court reversed a Court of Claims decision upholding the company's right to collect the additional price on grounds that the statute of limitations on the claim had expired.

¹⁵⁰ *Tatterson v. Suffolk Mfg. Co.*, 106 Mass. 56 (1870).

¹⁵¹ *Franklin Mining Co. v. Harris*, 24 Mich. 115 (1871).

¹⁵² *Wilder v. United States*, 5 Ct. Cl. 462 (1869), rev'd on other grounds, 80 U.S. 254 (1871).

In view of the fact that at least two of the cases cited by Wood found job security rights in the absence of explicit provisions on length of employment, one might surmise Wood did not intend to preclude introduction of proof on the duration issue. Yet late nineteenth- and early twentieth-century courts often failed to look beyond the word ‘inflexible’ in the statement of the rule. See, for example, *Martin v. New York Life Ins. Co.* (1895); *Harrod v. Wineman*, (1910).¹⁵³

Instead of the judicial system examining the flaws within *De Briar v. Minturn* and Wood’s logic, lawyers and judges continued, without oversight and a sensible amount of legal rigor, to cite this and other similar cases as precedent. Wood’s writings conveniently promoted the ideals of manifest destiny, laissez faire, and perhaps even American Exceptionalism, whether he did so knowingly or not. Though some of these beliefs would become less potent, the cascading effect of these decisions has continued to the present day with little impediment, with the notable exception of Montana.

The cases cited in Wood’s treatise do not lend themselves to the same conclusion as his own, as is true for the cases cited in *Martin v. New York Life Insurance Co.*, beyond those touching on the length of a contract for the purposes of employment. For example, in *Haney v. Caldwell* (1879), the agreement was in the form of an alleged oral contract (as opposed to a written contract), so nothing was memorialized; this is similar to *Tatterson v. Suffolk Mfg. Co.* in as much as the latter also had an oral contract component. Its inapplicability to *Martin v. New York Life Insurance Co.* has the same flawed relationship that *Tatterson* has to Wood’s Treatise and, additionally, *Tatterson* was purely based around an oral, not written, contract.¹⁵⁴ Therefore, it is just a matter of what the plaintiff and defendant claim to be true

¹⁵³ Shapiro and Tune, “Implied Contract Rights to Job Security Note.”; *Harrod v. Wineman*, 146 Iowa 718, 125 N.W. 812 (1910).

¹⁵⁴ *Haney v. Caldwell* (1879), *Tatterson v. Suffolk Mfg. (1870)*; *Martin v. New York Life Ins. Co.*; Shapiro and Tune.

and false in terms of one another because this case was predicated on their being only an oral contract/agreement without any written contract.¹⁵⁵ De Briar v. Minturn's issues are explained above, but compounding the implications was the fact that this was not ever an implied contract with a definitive termination date but was, *ipso facto*, a month-to-month contract and not for a set duration. De Briar just assumed and/or asserted that, due to the length of the ongoing relationship, it had become permanent because it continued beyond the agreed-upon date.¹⁵⁶ Viewing the facts of the case in such a way was not just out of place in its own time but is an ongoing matter of difficulty, as emphasized by Shapiro and Tune.¹⁵⁷

Montana, the Exception and the Rule

There have been many writings about the problems of at-will employment doctrine. In fact, the state of Montana created a statute to overturn such doctrine in 1987, but this was 90 years after *Martin v. New York Life Insurance* hijacked the common law procedures and unilaterally changed the course of employment law.¹⁵⁸ Shapiro, Tune, and even St Antoine, amongst many others, have discussed issues with at-will employment doctrine from a legal sense, and Dannin from that of employer-employee relations, but it appears that nobody has ever truly examined the social ramifications and cultural impacts that result from such a lack of employee stability in industrialized nations, and certainly not from an outsider's point of view. Americans, many not even knowing what at-will employment is, are too close to the issues surrounding at-will-employment that, even if they did know, it would be difficult to

¹⁵⁵ [Tatterson v. Suffolk Mfg. \(1870\)](#).

¹⁵⁶ De Briar v. Minturn.

¹⁵⁷ Shapiro and Tune, "Implied Contract Rights to Job Security Note."

¹⁵⁸ St Antoine, 'At-Will Employment'.

imagine a world without it. Nevertheless, as the following chapter will show, Australian athletes who have journeyed to the United States to play American football were frequently surprised by both at-will employment and its effects on sporting culture.

In previous literature on at-will employment, much was written about the legal and business ramifications in such an unstable system, but the cultural and sociological impacts were largely ignored. Accordingly, little focus has been paid to the way in which American culture has been shaped by the instability of at-will employment. In 1989, Theodore St Antoine mentioned how, ‘a year ago Montana became the first state to enact a comprehensive law protecting employees against unjust discharge’.¹⁵⁹ He further opined how, in light of this and other recent measures:

... over time, moral imperatives and notions of simple justice tend to win out in American law over strictly economic interests. Despite certain costs that corrective legislation would impose on business, the financial and psychological devastation visited upon the estimated 150,000 nonunion, no probationary employees who are fired unfairly each year is not likely to be left unremedied indefinitely.¹⁶⁰

Before Montana essentially scrapped at-will employment, states such as California, Illinois and Michigan had allowed certain circumstances in which a cause of action could be brought against a former employer. However, these statutes bypassed the courts in favor of arbitration, where, as mentioned, new case law has not been established, thus creating a feedback loop of sorts wherein all future plaintiffs must start at the place in which the last plaintiff began instead of building on where the previous case left off.¹⁶¹ Though this decision is in defiance of the logic and structure on which English common law is built, and is what is required for English common law to function properly, the change created new case law.

¹⁵⁹ St Antoine, ‘At-Will Employment’

¹⁶⁰ Ibid.,

¹⁶¹ Christopher R. Drahozal, ‘Is Arbitration Lawless?’, *Loyola of Los Angeles Law Review* 40, no. 1 (2007): 187–216.

However, arbitration is not problematic solely for this reason. It is arguable that arbitration as a form of bypassing the courts would be less of an issue in nations that are governed by civil law, such as Germany, Spain and many others, versus those operating under English common law. These problems occur in large part because the former operates on the basis that the facts of the case are to be applied to the laws and statutes directly. Though this is partially true in legal systems of English common law, in this form of law there is also the burden to cite past legal precedence in establishing the strength of a case. With cases bypassing the judiciary, new legal precedence cannot be created, thereby leaving law in a self-feedback loop. For example, those parties who are wronged and win in arbitration have no impact on future cases, leaving future claimants starting from square one.

There is also self-dealing in these private companies that conduct arbitration. A case was cited in an article by Senior Editor and Digital Content Strategist for Harvard Business School Danielle Kost, where she discussed the uneven playing field arbitration creates and the bias towards industry-friendly arbitrators. She quoted Mark L. Egan, who opined that ‘Unlike judges, arbitrators aren’t randomly assigned’. He went on to say that: ‘The ones that are getting systematically selected [by the disputing parties] tend to be more industry friendly. This also incents arbitrators to slant their decisions in favor of the industry to increase their chance of being selected in the future’.¹⁶² In fact, preselection of a favorable arbitrator is common practice. Kost then explains how, ‘During arbitration, claimants and brokerages rank their preferred arbitrators from a random Finra-generated list, striking ones that might side with the opposing party. Brokerages typically tap into vast troves of

¹⁶² Danielle Kost, ‘Why Investors Often Lose When They Sue Their Financial Adviser’, *Working Knowledge*, 12 August 2020, <http://hbswk.hbs.edu/item/why-investors-often-lose-when-they-sue-their-financial-adviser>.

proprietary information about arbitrators' past rulings, allowing them to eliminate arbitrators that might sympathize with customers'.¹⁶³

Though the article focuses on disputes with financial advisors and other aspects of Finra, the US brokerage industry's regulatory organization, it still explicitly elucidates the unfair advantage given to industry defendants over that of plaintiffs. The numbers here are both applicable and staggering. Kost explains how 40% of American investors rely on financial advisors and, given Egan's explanation, it is clear that the odds are not in favor of the client/aggrieved party when a dispute occurs since the industry has already proverbially primed the pump in their favor as well as of their representative.¹⁶⁴ In the case of wrongful dismissal and legalities of at-will employment, 100% of people are forced into this already rigged system in the states that compel arbitration:

Building on his 2018 research of 9,000 arbitration cases, Egan and fellow researchers found that 40 percent of arbitrators previously worked as advisers and they tended to favor brokers. The 8 percent of these arbitrators who were forced to pay clients restitution during their adviser careers were even more biased against consumers.¹⁶⁵

St Antoine further explains how, in the late 1980s, a 'typical bill (California, Illinois, Michigan) would provide for an arbitration system, not court and juries, and would substitute reinstatement with or without back pay or severance pay as a remedy instead of compensatory and punitive damages. Montana's statute gives the option of arbitration but retains punitive damages'.¹⁶⁶ In plain English, the courts in these states would allow the

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ 'Montana Wrongful Discharge from Employment Act', Pub. L. No. Montana Code Ann. 39-2-901 (1987), Montana Code Ann, 39-2-901 (1987) 4 (1987), https://leg.mt.gov/bills/mca/title_0390/chapter_0020/part_0090/sections_index.html; St. Antoine, "At-Will Employment."

plaintiff to go back to their old job, with or without back pay, instead of allowing them to seek damages to compensate the aggrieved party, and/or additional financial awards, as punishment to the inflictor of such damages. Doing so clearly does not work as many would not want to go back to their old job after such an experience, and, unlike Montana's statute (which allows for compensatory and punitive damages in court and/or arbitration), it promotes a system of further abuse wherein no new case law can be generated, nor an injured party truly be made whole.¹⁶⁷ Rather, these laws are more of a superficial bandage on a gash that requires sutures.

It has been over 30 years since St Antoine wrote 'At-Will Employment: An Overview', and, though there has since been some reform, unlike other industrialized nations, laws in the United States, for its circuit courts and its states, still provide no comprehensive protection to workers against unjust discharge, except in Montana. As an example, in 2020, Indiana's Supreme Court wrote a somewhat strange interpretation/exception to their strict interpretation of at-will employment:

In *Perkins v. Memorial Hospital of South Bend* (Case No. 20S-CT-233), a split Indiana Supreme Court ruled in favor of an employee who was discharged after testifying against Memorial Hospital of South Bend at a coworker's unemployment compensation hearing. In its decision, the supreme court reiterated and reaffirmed Indiana's strong presumption of at-will employment and discussed, but declined to create, an exception for voluntary witness testimony at unemployment hearings. Instead, the court remanded the case for a factual analysis of whether the employee had a 'duty' to testify, leaving it to the fact finder to decide whether the employee was, without a paper subpoena, 'constructively'

¹⁶⁷ 'Montana Wrongful Discharge from Employment Act'; LeRoy H. Schramm, 'Montana Employment Law and the 1987 Wrongful Discharge from Employment Act: A New Order Begins', *Montana Law Review* 51, no. 1 (1987): 1-33.

compelled to testify at an unemployment hearing.¹⁶⁸In summation, the split court decided that at-will employment was still fully in effect in the state of Indiana and, though the plaintiff was technically not required by law to appear without a subpoena (an act that would certainly have protected his employment status), his assumption that a subpoena would be provided and/or his cooperation with the law enforcement and legal process was enough to make him eligible to be protected under the current public policy exception. He had requested that the scope of the public policy exception be expanded to people like himself who provided testimony voluntarily, but this argument was rejected. Instead, the courts ruled in his favor due to the novel acts of the case. Michelsen summarizes the confusion best:

The Supreme Court's decision, which stopped short of adding a new exception to employment at will or a per se expansion of the current exceptions, does highlight the factual nuances of the current, narrow public policy exception. Here, the court undertook a factual analysis regarding whether Perkins had a legal duty to testify under Indiana law when he was not obligated to do so by a subpoena. If he did have a duty, the public policy exception would apply and his discharge would have been unlawful. However, if Perkins's testimony was completely voluntary and he was not 'constructively compelled' to testify, then no legal right or duty is implicated and no exception applies. Judge Massa concluded that '[s]ince [Perkins] would be personally responsible for violating his duties [once he had been subpoenaed] he may be protected by the public policy exception ...'

In some ways, this decision poses more questions than it answers, and calls into question the previously unwavering requirement that there be an explicit statute that creates the duty or establishes the right that might serve as a basis for an exception to the employment at will doctrine. It also reminds employers that although Indiana's at-will doctrine is strong, they should not assume it is impenetrable. It is not unusual for an employer to assume that there is little or no risk of discharging an at-will employee, especially if it appears that the individual does not have a basis for bringing a wrongful termination suit based on discrimination against some protected characteristic, race, gender, age, religion, disability, etc. That is a dangerous assumption. As *Perkins v. Memorial* reveals, unless an employer can eliminate any implicit duty or right upon which the discharged employee may have acted, there may be a risk. Like any termination decision, employers may want to carefully and honestly assess the facts and

¹⁶⁸ Jan Michelsen, 'Indiana Supreme Court Favors Employee Over Interpretation of "Public Policy" Exception to At-Will Employment', *Ogletree Deakins* (blog), accessed 7 July 2020, <https://ogletree.com/insights/indiana-supreme-court-favors-employee-over-interpretation-of-public-policy-exception-to-at-will-employment>.

circumstances to be sure there is no evidence of retaliatory animus, real or perceived.¹⁶⁹

At-Will Retains Its Power

The above summary illustrates a strong and all-too-normal example as to how, even where lawsuits are permitted to be brought against an employer today, the strength of at-will employment has not loosened its grip in a way that would provide an employee stability. Outside of Montana, there is still a long way to go for employees and their rights until at-will employment is federally overturned, or each state adopts a statute to protect individuals from dismissal without good cause. On the heels of the Montana decision, it is unfortunate for American employees that St Antoine's seemingly reasonable prediction from 1989 that other states would follow has not come to pass.¹⁷⁰

As a result, American employees are never at a state of equilibrium/stability where, knowingly or unknowingly, they can simply focus on doing their work as that fear of being dismissed for *any* cause is always present. McClelland believed in his three needs (power, achievement and affiliation), but it is arguable as to whether or not any of them are truly achievable within a system that undermines one's ability to pursue them.¹⁷¹ As further explored, where a person goes to work in the United States (except Montana) will provide similar experiences despite the amount of diversity and cultures found across the nation. At-will employment is present in all places and permeates across micro-cultures in the United States.

However, this scenario is not exclusive to Americans and the United States. As early as 2005, Ron McCallum, in his role as the Blake Dawson Waldron Professor in Industrial

¹⁶⁹ Michelsen, "Indiana Supreme Court Favors Employee Over Interpretation of 'Public Policy' Exception to At-Will Employment."

¹⁷⁰ St. Antoine, "At-Will Employment."

¹⁷¹ David C. McClelland, *Human Motivation* (Cambridge: Cambridge University Press, 1987).

Law and Dean of Law at University of Sydney, gave the Benjamin Aaron Lecture in Los Angeles, and wrote ‘Plunder Down Under: Transplanting the Anglo-American Labor Law Model to Australia’ for the *Comparative Labor Law & Policy Journal*. In that work, he covers the histories of labor law in the United States, Great Britain and Canada, while also addressing matters of the American pre-emption doctrine and the United Kingdom’s deregulation, and how these two would be more difficult to enact in Canada due to the great strength of each province’s self-determination. Strangely, this strong individual state governance is something traditionally emphasized in American states, in comparison to Canadian provinces and Australian states. However, according to Cox, Bok, and Gorman, in the United States, the strong influence on labor law came from Quebec, combined with President Franklin D. Roosevelt’s New Deal and 1935’s Wagner Act¹⁷² regulating interstate commerce.¹⁷³

McCallum then applies what may happen to Australia. Throughout, he opines on how less than 10% of American employees at that time were covered by collective arrangements, that Margaret Thatcher’s moves towards deregulation in the 1980s could be applied to Australia, and, though only mentioned once, he does include exactly how the employment at-will doctrine is both unique to America and a problem to its workers, suggesting that:

... the doctrine of employment at will, which enables employers to terminate without notice or for any reason whatsoever, appears to me to place American workers in a vulnerable position in the labor market. Many scholars have advocated modernizing the collective bargaining laws, while others have argued that alternative employee

¹⁷² Archibald Cox, Derek Curtis Bok, and Robert A. Gorman, *Cases and Materials on Labor Law* (Mineola, NY: Foundation Press, 1977); *N.L.R.B. v. Jones & Laughlin Steel Corp* (No. 301

U.S. 1, 57 S.Ct. 615, 81 L.Ed. 893, 1 L.R.R.M. (BNA) 703, 108 A.L.R. 1352, 1 Empl. Prac. Dec.

P 9601, 1 Lab. Cas. P 17,017, Supreme Court of the United States, 12 April 1937).

¹⁷³ McCallum, “Plunder Downunder.”

representation strategies should be utilized. However, neither the Congress nor the courts have taken much notice of their thoughtful pleas.¹⁷⁴

In Australia, the employment law is also quite unique in that full- and part-time employees are not subject to at-will employment but casual employees are subject to this; and, unlike other industrialized nations, casual employment in Australia has been strongly codified and recognized since 1907, stemming from the United Kingdom's Workmen's Compensation Act 1906.¹⁷⁵ Though the law began to distinguish different classes of dockworkers in the United Kingdom, the application to Australia became notably different, as per Wooden and Laß (described shortly). Moreover, unlike other nations where at-will employment is not the standard, Australia also differs in its large number of workers consistently hired legally as casual employees but working consistent hours for the same employer for long durations of time. Inga Laß, a Research Fellow at the Melbourne Institute of Applied Economic and Social Research at the University of Melbourne, and Mark Wooden, of the same institute, used data spanning between 2000 and 2017 to further elucidate the situation regarding the definitions and differences between fixed-term and casual employment, both from an international interpretation as well as how it is applied in Australian exceptions:

Fixed-term contracts cover all employment contracts that specify a date or event when employment will be terminated. In Australia, fixed-term contracts generally come with the same entitlements as permanent contracts (e.g., with respect to paid leave and paid holidays). Further, fixed-term contract workers have a general expectation of being employed at least for the duration of their current contract.

Less straightforward is the identification of casual employment. While a dictionary definition would suggest that casual employees are hired for very short periods, with each engagement of work constituting a separate contract of employment, it is generally accepted that many casual employees work regular hours for the same employer over long periods, a view that is supported by

¹⁷⁴ McCallum.

¹⁷⁵ Hatcher, Hamberger, Kovacic, Bull, and Roe, '[2017] FWCFB 3541 Fair Work Commission Decision PR594269: PR594269 - Decision - 05 July 2017', Fair Work Ombudsman, 5 July 2017, <http://awardviewer.fwo.gov.au/award/link/PR594269>.

survey data¹⁷⁶

Even the title of Rosemary Owens's article brings awareness to the irregularity of this situation when compared to other industrialized nations (not including the United States) given her work is entitled, 'The "Long-Term or Permanent Casual", An Oxymoron or a "a Well Enough Understood Australianism" in the Law?'.¹⁷⁷ Hahn, McVicar, and Wooden described Australia's unique status with casual employment by trying to contextualize how the status and rights for casual employees evolved from inception to modern times:

Casual employment is further encouraged and legitimised by a requirement that all casual employees receive a pay premium. Historically, this premium varied across awards, but with 20% the norm for most of the post-War period. In 2010, new legislation was introduced that imposed a standard minimum casual loading of 21%, gradually increased to 25% by July 2014. When originally introduced (in the early 1920s), the casual pay premium (then just 10%) was deemed necessary to compensate casual workers for the inherent insecurity of their employment.

Subsequently, however, it came to be seen as a trade-off for the absence of legal entitlement to annual leave and sick leave, paid public holidays, minimum periods of notice of termination and severance pay. This legal framework, coupled with the unusually high prevalence of casual employment in Australia, suggests both that the types of workers entering casual employment and the nature of casual work itself in Australia may differ from other countries.

Despite the pervasiveness of casual work provisions in awards, casual employment has never been defined in those awards. Indeed, it is common for awards to define a casual employee as those 'engaged and paid as such'. Nevertheless, it is generally acknowledged that its key defining feature is the absence of any advance commitment on the part of the employer to both the continuity of employment and the number of days or hours to be worked. Note, however, that many casual employees work regular hours for the same employer over long periods¹⁷⁸

¹⁷⁶ Laß and Wooden, "Trends in the Prevalence of Non-Standard Employment in Australia." Inga Laß and Mark Wooden, 'The Structure of the Wage Gap for Temporary Workers: Evidence from Australian Panel Data', *British Journal of Industrial Relations* 57, no. 3 (2019): 453–78, <https://doi.org/10.1111/bjir.12458>.

¹⁷⁷ Rosemary J. Owens, 'The "Long-Term or Permanent Casual" - An Oxymoron or "a Well Enough Understood Australianism" in the Law?', *Australian Bulletin of Labour* 27, no. 2 (2001): 85-108.

¹⁷⁸ Hahn, McVicar, and Wooden, "Is Casual Employment in Australia Bad for Workers' Health?"

It is evident that one of the most unique facets of casual employment in Australia comes from the final sentence in the above quotation. For many, it ceases to be ‘casual’ in practice as many people work regular hours over long periods, even years. In this sense, it would not be accurate to say that Australian employment patterns and law fall in the middle of the continuum between the United States and other industrialized nations, but it nonetheless is still somewhere between the two.

Australian employment law clearly states that the firing of an employee for the purpose of hiring the person back in the form of a contractor is illegal. As per the 2009 Fair Work Act (Cth):

358 Dismissing to engage as independent contractor

An employer must not dismiss, or threaten to dismiss, an individual who:

- (a) is an employee of the employer; and
- (b) performs particular work for the employer; in order to engage the individual as an independent contractor to perform the same, or substantially the same, work under a contract for services.

Note: This section is a civil remedy provision (see Part 4-1).¹⁷⁹

Though the Fair Work Act does provide protection for employees against wrongful termination for the purpose of rehiring as a contractor, it falls short by not mentioning the same firing or reclassifying of said employee for the purpose of one’s employment status becoming casual. The way in which this occurs is further elucidated in the *Employment Law Handbook* in that it does differentiate the illegality, as per the above, of the questionable status of transitioning from full- and/or part-time to ‘casual’.¹⁸⁰ Accordingly, it is legal to change an employee’s status from full- or part-time to casual, though there is some

¹⁷⁹ Fair Work Act 2009, C2020C00153 C2020C00153 § S358 (2020), https://www.legislation.gov.au/Details/C2020C00153/Html/Volume_1.

¹⁸⁰ ‘Full-Time to Casual to Save the Business – But is it Legal?’, 15 July 2016, *Employment Law Handbook*, <https://employmentlawhandbook.com.au/full-time-to-casual-to-save-the-business-but-is-it-legal/>.

understanding as to certain restrictions and potential risks in doing so.¹⁸¹ The Fair Work

Commission is quite clear that an unfair dismissal is to be dealt with in the following manner:

If you think your employment ended unfairly (you were dismissed or your employment was terminated unfairly):

1. You can start a legal action against your employer by applying to the Fair Work Commission using the correct form and paying a fee.
2. The Commission will send a copy of your application to your former employer, and they will be given the chance to respond to your application.
3. Usually, you will be given a time and date for a conciliation conference – this is a voluntary process where Commission staff try to help both sides resolve the dispute without the need for a more formal hearing before a Commission Member. Staff conciliators do not make decisions about the merits of the application.
4. If it cannot be resolved at conciliation, the application will be sent to a Commission Member for a decision.
5. If the application is sent to a Commission member for hearing, the remedies the Commission can order are limited by the law (the Fair Work Act 2009), and can include:
 - reinstatement (getting your job back)
 - compensation (cannot be more than 26 weeks' pay, and cannot include compensation for shock, hurt or humiliation)
 - non-financial remedies (eg. a written statement of service).¹⁸²

However, it is important to appreciate that the law as written is not always consistent with the culture surrounding it. As an example, there are many things that are illegal that go unenforced because it requires an aggrieved party to know that what has happened is illegal and for that party to have the resources to fight back. For example, as of 2014, casual employees in Australia are supposed to be paid 25% more than their full- and part-time counterparts.¹⁸³ To expect a new hire to know what is the going industry rate for their position, or even the going rate at their company, is a bit far-fetched, and this assumes there is an ability to a) have employees who are not casual to compare with; b) have access to their earnings and/or; c) trust your employer to actually pay you 25% more in the second case. If there is nobody within the company the employee can compare situations with, then it will be difficult to find out what the 'correct' 25% extra payment would be aside from jobs that are

¹⁸¹ Ibid.

¹⁸² Fair Work Commission, 'Unfair Dismissal', 26 March 2020, <https://www.fwc.gov.au/termination-of-employment/unfair-dismissal>.

¹⁸³ Inga Laß and Mark Wooden, 'Trends in the Prevalence of Non-Standard Employment in Australia'. *Journal of Industrial Relations* 62, no. 1 (2020): 3–32, <https://doi.org/10.1177/0022185619873929>.

paid at minimum wage, or others that are clearly covered by an award scheme, such as certain university roles and government roles. These terms vary by industry. There are many others, however, that are outside the scope, so a calculation as to what a casual employee legally should earn would be difficult to calculate, to say the least.

However, the law as written does not always align with the realities of enforcement and workplace culture. Many legal protections rely on an aggrieved party's awareness of their rights and their ability to challenge violations, an issue particularly relevant in casual employment. For instance, since 2014, Australian law mandates that casual employees receive a 25% pay loading over full- and part-time workers, yet determining whether this is properly applied can be difficult. A new hire may lack access to comparative wage data, may be unaware of their entitlements, or may simply trust their employer to comply. This opacity is exacerbated in industries without clear award structures, making it challenging to assess whether casual employees are fairly compensated.

In sport, similar dynamics emerge, particularly in the structuring of athlete contracts and employment conditions. While professional athletes are often assumed to be well-compensated, those in lower-tier leagues, development pathways, or overseas opportunities may face precarious employment terms with limited recourse. The fluidity of contracts, lack of union representation in some cases, and reliance on goodwill rather than strictly enforced legal frameworks mirror the broader casual labor landscape. Just as at-will employment in the United States has shaped a culture where job security is uncertain, Australian casual employment laws, while offering formal protections, do not always translate into guaranteed outcomes. These structural issues, both in traditional workplaces and in professional sport, underscore the complexities of labor rights enforcement within competitive and profit-driven environments.

With a glaring loophole where full-time and/or part-time employees can be reclassified as contractors (illegally) or casual employees (subject to restrictions but still requiring enforcement), it is likely that many workers will simply go along so as to keep their jobs in the best of times, and even more so as the result of lockdown-induced job losses.¹⁸⁴ In fact, Australian laws have increased benefits to casual employees since the beginning of the 2020 government lockdowns, such that expanded benefits now include sick and annual leave.¹⁸⁵ What is interesting to note, however, is the 2018 *WorkPac Pty Ltd v. Skene* case, which found in favor of the plaintiff's right to benefits because, despite being hired as and working under a casual employment contract, the court found the role, in practice and according to the strict common law definition, to actually have been a full- and/or part-time employment due to a regular pattern of hours over a long period of time.¹⁸⁶ The conclusion here is slightly confusing since Australia has a history of individuals being hired as casual employees over long durations of time by individual employers.¹⁸⁷ However, one might hesitate to truly see this as a worker benefit given it could be construed as an acknowledgment that there is a flaw in the current system, and people desperate for work may be more willing to take a casual employment role during a pandemic when they would otherwise be gainfully employed in a part- or full-time capacity during 'normal' times.

It is important to note that laying people off due to downsizing or company financial reasons are fully acceptable and legal reasons in Australia, and this is not the same as firing someone per se, which requires good cause. As a result, there has not been a need to change the status of employees and, coupled with the amount of money supporting many people via

¹⁸⁴ "Full-Time to Casual to Save the Business – but Is It Legal?"

¹⁸⁵ Fair Work Ombudsman, 'National Employment Standards', 14 September 2020, <https://www.fairwork.gov.au/employee-entitlements/national-employment-standards>.

¹⁸⁶ Tracey, Bromberg, and Rangiah JJ (Judges), '*WorkPac Pty Ltd v Skene* [2018] FCAFC 131', Federal Court of Australia, 16 August 2018, <https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/full/2018/2018fcafc0131>.

¹⁸⁷ Ibid.

schemes such as Australia's JobKeeper, the need for employers to utilize the fire-and-rehire method, or reclassifying tactics, has been muted or at least delayed. The question is, when these JobKeeper payments stop and more people are fighting for fewer available jobs, will employers use the aforementioned techniques with current full- and part-time employees as a way to drive more competition and lower wages? The NRL players took a 6% pay-cut in 2021 due to the lockdowns and have had to negotiate back from there.¹⁸⁸

Australia and the Americanization of Labor

The legality of such business practices aside, this puts Australian employees at risk of, by default, becoming more like their American counterparts. That is to say, there is an opening for the 'at-willization' of the Australian worker to take place. It may also explain why small benefits/protections have been added to the rights of casual employees. Post-covid-19, there is even more room for concern as to the re-classifying of employees in order for them to keep their jobs, but now as contractors or even casual employees. The law for casual employees in Australia now guarantees annual and sick leave for casual workers but, though this may be good in certain ways, it likely more people will then be hired as casual employees. When more people are unemployed and need jobs, especially when JobKeeper funds run out, there will be an increase in the 'race to the bottom', wherein people will be willing to work more time for less money due to fewer available jobs. Some immediate ramifications are being seen at the university level.

This practice of 'casualization abuse' at the University of Melbourne has been occurring for nearly a decade, but it was only brought to light post-2020 lockdowns.¹⁸⁹

¹⁸⁸ Hodson, "NRL Players Agree To 6% Pay Cut As Origin Players Sacrifice \$3 Million."

¹⁸⁹ Conor Duffy, "Australia's Richest Uni Only Paid Staff for First Three Minutes of Marking an Assignment." *ABC News*, 4 August 2020, <https://www.abc.net.au/news/2020-08-05/university-of-melbourne-exposed-in-decade-long-wage-theft-case/12519588>.

Moreover, as can be clearly seen, despite wages being posted for most full- and part-time roles in question at the university, this was not enough to protect faculty from being subjected to ‘wage theft’, as an ABC report put it.^{190 191} It is simply not enough to say that because the information is theoretically ‘out there’, a weaker party (employee) should know better and be able to obtain employment whilst ensuring 25% greater pay.

As the National Tertiary Education Union put it:

the UniMelb experience is a great example of how we can win by organising and acting collectively to enforce our rights. In circumstances where members often feel intimidated by coming forward with their issues, for fear of losing their (insecure) work, collective action and power in numbers has been the antidote ...¹⁹²

However, ‘so far over \$99,000 has been paid to casual academics in Engineering. Other payments are being processed, and our estimation is that the total amount owed will be close to \$6m. The Fair Work Ombudsman is also now investigating’.¹⁹³ This case is not a one-off case as other institutions have been outed for such practices, including Sydney University, which is said to owe tens of millions of dollars as opposed to University of Melbourne’s \$6m payout.¹⁹⁴ Similar events have occurred with departments being culled at universities in the past, but this is more likely to increase due to the lack of overall students resulting from locking international students out of the country.¹⁹⁵ It is basic economics in the classical

¹⁹⁰Ibid.; University of Melbourne Graduate Student Association, “GSA Wage Theft Submission - Submission to Senate Inquiry into Unlawful Underpayment of Employees’ Remuneration University of Melbourne Graduate Student Association.”

¹⁹² Sarah Roberts, ‘Union Win! \$6m in Casual Wage Theft Uncovered at UniMelb’, National Tertiary Education Union, 8 September 2020, <https://www.nteu.org.au/wagetheft/article/Union-win%21--%246m-in-casual-wage-theft-uncovered-at-UniMelb-%28Connect-13-02%29-22317>.

¹⁹³ Roberts, “Union Win! \$6m in Casual Wage Theft Uncovered at UniMelb (Connect 13 02).”

¹⁹⁴ Jordan Baker, ‘Sydney Uni Reveals Tens of Millions in Staff Underpayments’, *Sydney Morning Herald*, 13 August 2020, <https://www.smh.com.au/national/sydney-uni-reveals-tens-of-millions-in-staff-underpayments-20200813-p55lj8.html>.

¹⁹⁵ Natassia Chrysanthos, ‘Macquarie University to Slash up to 30 Courses Over Lack of Students’, *Sydney Morning Herald*, 30 September 2020,

sense of supply to the sky and demand to the sand. Though a small win, it should more so be viewed as an indication as to the dangerous direction worker rights are headed in Australia.

There is no justification to allow businesses to reclassify people who would otherwise fall under full- or part-time working status, as it allows the government and employers to receive the same benefits and work from employees while reducing and/or eliminating certain protections that would have been provided under the law. Some would argue that the law pertaining to casual employees is that they are to be paid 25% more than their full- and part-time counterparts, but how would an employee know what the going price is, what 25% more is, and/or what they should be paid if the rest of their co-workers are all hired as casual. Culture dictates how people act and sharing the terms of one's contract/earnings with colleagues is simply not the done thing, so, even if there were full- and/or part-time workers alongside casual employees, the information is unlikely to be shared based on social norms. The opportunity to share this information has been further hampered by working remotely; there is less social/free time for people to simply speak with one another on subjects aside from specific work tasks because working remotely means video conferences are solely focused on specific tasks. In this sense, the loophole created by classifying casual employees under the at-will doctrine and, by default, as contractors, has led to a situation that can be easily exploited due to the high level of unemployment and demand to find work. In short, the Australian employee is desperate and in a race to the bottom in the competition to find any work at all.

There is the argument that casual employees are paid better per hour, which should offset the greater uncertainty of employment compared with full- and part-time workers. But this logic is flawed. Firstly, many of those workers made casual or contractors are still

<https://www.smh.com.au/national/nsw/macquarie-university-courses-must-soon-meet-viability-scores-to-survive-20200930-p560qb.html>.

working in the same capacity as before, but on reduced hours since JobKeeper provides a temporary net to allow for this possibility. Secondly, by creating a new social paradigm with a lower bar, it is unlikely that the higher quality of working standards previously expected will return.

As at-will and casual employment in the United States and Australia have also been seen to have negative consequences in sport, it is worth examining how this is not limited to the sports industry. In their 2020 article, ‘Is Casual Employment in Australia Bad for Workers’ Health’, Hahn, McVicar, and Wooden demonstrated an answer that would seem surprising based on the aforementioned arguments. Despite not having guaranteed hours and more instability, they argued that there was no significant demonstration of a greater negative impact to the health of the Australian casual employee. Their conclusion stated that ‘this study found no evidence that casual employment in Australia is detrimental to self-assessed worker health’.¹⁹⁶ Firstly, the data that was reviewed came from between the years 2001 and 2018. In most of the world, this would have overlapped with the global financial crisis, which began thereabouts in 2007-2008 and continued for approximately five years. However, this was not the case in Australia, which was not largely impacted due to a strong real estate market and international trade with China. Secondly, many of the aforementioned mistreatment and wage scams discussed at universities and other institutions were not public knowledge; this is something that would certainly shake confidence in those with relevant roles after they had found out that their wages were absconded. Finally, unlike the United States, where everyone is an at-will employee (except in Montana), the class of casual employee in Australia operates amongst a culture largely defined by the worldview and experiences of full- and part-time employees. However, while this is not an absolute

¹⁹⁶ Hahn, McVicar, and Wooden, “Is Casual Employment in Australia Bad for Workers’ Health?”.

underlying difference, the majority culture in work that requires good cause to fire an employee does color the worldview of casual employees as well.

Within reason, this is not to say that the conclusion is one wherein a subgroup or subclass of people cannot have a unique experience compared to the majority, but here it is reasonable to understand that a group unaffected by global economic hardship, unaware of their being mistreated, and influenced by the dominant culture in an area where most people are unaware of the subtle implications of the law, would likely come back with the findings in this article. These impacts must also be taken into account with two questions asked. Firstly, would these same people have the same results should the above three influences have not been present? Secondly, in terms of the focal point of this research, where Australians in the United States have had nearly unanimous experiences, is this to say that there is still a clear causal correlation in diminished workers' health in the United States as a result of everyone being at-will, and/or does this still demonstrate how there is at least a cultural paradigm shift as a result of a universal perception, even when it is only based on the experience of the majority? Unlike Australia, where peoples' health information is reported as depersonalized and analyzed, this same task would be difficult to calculate as a result of the United States not having a government-run form of universal healthcare for the data to be centrally sourced. Doing so is also complicated since the only at-will class of employees in Australia is casual, whereas *all* employees in the United States could be considered casual. An inability to determine workers' health due to at-will status in the United States versus Australia will likely be difficult to ascertain. Nonetheless, these questions provide reason to question the findings of Hahn, McVicar, and Wooden, at the very least in terms of their applicability post-2018 (when the data sample ended), and certainly after the government-mandated lockdowns that began in March 2020.

As one case in point, Deliveroo argued that their drivers were contractors and not casual employees.¹⁹⁷ Doing so illustrates that the stability hierarchy exists even between these two at-will forms of work, wherein the latter category receives benefits but the former does not. As discussed, it is illegal to terminate an employee and then rehire the same person as a contractor (though this does occur), but it is legal to change a person's employment status to casual with certain restrictions. The fact that Australia does recognize casual status as a valid form of employment, even if it is one of at-will status, means that it bridges the stability hierarchy of contractors and full/part-time workers. As indicated by the earlier examples of wages being withheld in universities and other places of employment, Deliveroo, which claims not to employ their delivery drivers, is also addressing a similar matter since, at the end of the day, it costs less to have contractors. David Marin-Guzman illustrates the situation clearly when stating how the dual pain points of both sides were that the Transport Workers Union (TWU) argued how riders would be penalized if shifts were cancelled, but 'Deliveroo argued that even casuals are not allowed to do other work during shifts and this was what Mr Franco did, fielding orders from Doordash and UberEATS at the same time as Deliveroo'.¹⁹⁸ In further elucidation of the first point, the TWU established that this accusation is not germane as it, in and of itself, describes the very nature of the casual at-will employee end of the relationship, which is the right to, at will, show up or not. It seems apparent that the goals of Deliveroo are to keep worker costs down and for the TWU to provide greater security for the workers it represents. However, each side's arguments miss some parts of the discussion, which the judiciary will have to decide on. Firstly, though it is the right of a casual employee to show up or not at will, is this truly part of the convention?

¹⁹⁷ David Marin-Guzman, 'Our Riders Don't Work for Us: Deliveroo', *Australian Financial Review*, 20 October 2020, <https://www.afr.com/work-and-careers/workplace/our-riders-don-t-work-for-us-deliveroo-20201020-p566sq>.

¹⁹⁸ Marin-Guzman, "Our Riders Don't Work for Us."

Secondly, are riders really working for other companies at the same time as they are making a delivery, or are they taking jobs before and/or after their Deliveroo job is completed? Even if it is the latter, is this still in compliance with convention, or at least the assumption that one is fully focused on and fully working for said employer in their specified role within the organization? It can be argued either way, but that is more a topic for the judiciary than here.

It does not appear accidental that the Deliveroo and university cases are all both came to a head seven months since the lockdowns began. What is clear is that the stability of employment can be tenuous, and many are seeking to create a more solid platform in which to work. Having this stratification of full/part-time guaranteed employees, at-will casual (with some benefits) and at-will contractors (no benefits) is unique to Australia, but it does fit the US model, where, culturally, it can be seen that businesses prefer employment models with less employee stability and fewer benefits/guarantees. The aforementioned is a cautionary tale to the Australian worker that standards must be kept because getting them back will always be a battle, and one that is rarely won. This system exponentially supports employee stability more than the United States and, though separate research into the state of Montana would be interesting, this is a strong reason as to why the Australian athletes who have played American football had such consistent experiences despite *where* in the United States, they played sport (as the next chapter will demonstrate).

From an Australian perspective, the following may be considered obvious, but from a United States perspective, it is certainly viewed as a shock in that, for Americans, it is counter-intuitive that at-will employment can actually be bad for companies and the bottom line. Without getting into too much detail, Australian athletes frequently noted that they were able to have a laugh with colleagues in Australia, but that this was highly frowned upon in the United States. As an example, it was considered okay to joke around in Australia when practicing as long as you were working hard, whereas this was not their experience in the

NCAA or NFL; it was not enough to work hard because they felt they had to act and show everyone how hard they were working. It was brought up many times, as will be seen, that it was not enough to simply work hard; one must show how hard they are working in the United States. Any perception of a smile or a joke is viewed as slacking off, which, at best, will go unnoticed but, at worst, could harm a person's career. There is little to no view that decompressing and having a day off can have a positive impact on the collective results of the team/organization. Such is the case discussed by Ellen Dannin and published by the *Labor Law Journal* as 'Why At-Will Employment is Bad for Employers and Just Cause is Good for Them'.¹⁹⁹

Firstly, Dannin makes clear that she and a Wisconsin court feel that the reason why at-will doctrine is strongly protected is not necessarily due to its positive impact and/or sound legal precedents but merely because of longevity, as evident in the extracts below.

A recent Wisconsin case suggests that longevity is only one reason courts vigorously defend at-will status.

The employment-at-will doctrine is a 'stable fixture' of our common law, and has been since 1871 ... It is central to the free market economy and 'serves the interests of employees as well as employers' by maximizing the freedom of both ...

The prevailing general rule is that an at-will employee has no legal remedy for 'an employer's unjustified decision to terminate the employment relationship'. The employment-at-will doctrine thus inhibits judicial 'second-guessing' of discharge decisions, even those that are unfair, unfortunate, or harsh.²⁰⁰

She then proceeds to explain the false beliefs employers think protect them as a result of AWE: 'Many employers believe that if they set up an at-will system and police it vigorously they will be safe from lawsuits. This is not necessarily so. Employment law litigation is on the rise'. Here, Dannin addresses one of the key concerns of employers, which is the belief that at-will employment doctrine provides greater flexibility to dismiss employees with

¹⁹⁹ Ellen Dannin, 'Why At-Will Employment is Bad for Employers and Just Cause is Good for Them', *Labor Law Journal* 58, no. 1 (2007): 5–16.

²⁰⁰ Dannin, "Why At-Will Employment Is Bad for Employers and Just Cause Is Good for Them."

greater ease. However, this does not mean the employee will not take legal action, even if they end up losing. This may be affordable and an effective method for corporations with lawyers on retainer, but for most businesses and individuals, this is not the case, and recovering legal costs, even when winning, is a hurdle. Between 1970 and 1989, for instance, the overall caseload in federal courts grew by 125%.²⁰¹ During the same period, the employment discrimination caseload before those courts grew by 2,166%.²⁰² In 1989, there were 8,993 employment discrimination matters filed in federal courts; in 1997, plaintiffs filed 24,174 cases. Presently, approximately one in every 11 civil cases on federal court dockets involves a question of employment discrimination.²⁰³

Moreover, there are other implications Dannin covers that are not evident to those who believe that the ability to fire people without good cause is free of costs, financial and otherwise. Mainly, this standard of at-will employment has created an adversarial environment between employer and employee prior to there even being a formalized relationship. The assumption by employees is that employers consider them expendable, and the assumption by employers is that a) employees will leave them at the ‘drop of a hat’ even when treated well; or b) employees that deserve to be fired will bring about lawsuits that are costly to the business and employers, both in time and money. As Dannin argues:

...there is a price to be paid for retaining at-will employment as our default employment law, and employers are paying a large part of that price. Many employers believe that if they set up an at-will system and police it vigorously they will be safe from lawsuits. This is not necessarily so ...²⁰⁴

Dannin cites the aforementioned findings of Donohue and Siegelman, as well as the

²⁰¹ John J. Donohue III and Peter Siegelman, ‘The Changing Nature of Employment Discrimination Litigation’, *Stanford Law Review* 43, no. 5 (1991): 983–1034.

²⁰² Donohue and Siegelman, “The Changing Nature of Employment Discrimination Litigation.”

²⁰³ Richard T. Seymour and Barbara Berish Brown, *Equal Employment Law Update*, (BNA Books, 2000).

²⁰⁴ Dannin, “Why At-Will Employment Is Bad for Employers and Just Cause Is Good for Them.”

work of Seymour and Berish Brown. She wrote her findings in the second quarter of 2007, prior to the global financial crisis and, in light of the increased distrust, mistrust and general instability from this and subsequent global events, it is fair to say that this already deteriorating relationship has become more pronounced and unstable.

It is hard to imagine a way in which this would cease to be the case 125 years after how the law was interpreted in *Martin v. New York Life Insurance*, especially given the wake it has created socially, legally and culturally. A case study on whether or not this has been a positive shift towards a more trusting and stable paradigm in Montana would be worth pursuing to see if the damage can be undone, or even better, a process of cultural repair following rejection of at-will employment in 1987. Doing so is not exhaustive, nor is it to say that cultures where good cause is required to dismiss an employee lack any adversarial component in the employer/employee relationship. But, as will be demonstrated in the following chapter, it is simply not as adversarial.

Examining McClelland's research, mentioned in the opening paragraphs of this chapter, is crucial in understanding how his 'three needs' (power, achievement and affiliation) apply in American, Australian and other places of employment. It is strange that McClelland came to his conclusions in America in the first place since his 'three needs' (that will be discussed further) at best appear to have been absolutely subverted, undermined and/or are unable to be truly realized in the American at-will employment model. As an analogy, this is similar to a nation where, proverbially, a professor has the right to fail a student who scored 100% because only a certain number of students are allowed be given an A+. Ergo, it is hard to imagine how McClelland came up with these paradigms in a nation that, at best, creates hurdles and/or, at worst, entirely subverts any meaningful possibility to achieve the three needs he discusses. In such an environment, it is a wonder that he was able

to understand that a person has a need for power (self-determination and/or control over others), achievement (monetary and/or goal-oriented), and affiliation (friendship in the workplace).²⁰⁵ He goes on to explain how each person has these three needs, both in different orders of value and at different value levels, meaning a person could have the three in near equal value but still assign primary, secondary, and tertiary importance. Another person could find one of the three nearly unnecessary, another slightly necessary, but a third of great importance. This model is still used today by industry experts such as Korn Ferry in establishing the motivations of employees and leaders.²⁰⁶

McClelland had a fourth need called ‘need for avoidance, that he later added, but this is really an inverse of the ‘need for affiliation’ in that it accounts for people’s need to be left alone. However, the fourth definition McClelland provides, avoidance, is not the ‘fourth’ need that would contextualize his above three. At a certain point, there is an assumption that a balance of all three of the original needs will create a paradigm of stability for the individual in achieving their goal. However, as discussed throughout the chapter, there is no guarantee of stability in American employment law at the same level as in other industrialized nations. One cannot have the need for power, achievement, and/or affiliation satisfied when one can be sacked for any reason at any time. Arguably, in a system that requires good cause to fire someone, the three needs work very well in illustrating how a healthy, functioning society and a workforce can coexist. But there is nothing here to satisfy the need for stability. There is a clear need for stability that goes largely unaddressed, though it should be considered the fourth need when continuing to use McClelland’s model.

²⁰⁵ McClelland, *Human Motivation.*, McClelland, “How Motives, Skills, and Values Determine What People Do.”, Patty Mulder, ‘McClelland Theory of Motivation’, 19 March 2004, <https://www.toolshero.com/psychology/mcclelland-theory-of-motivation/>

²⁰⁶ Korn Ferry Group, ‘Korn Ferry’s Motivators in Talent Management’, 23 March 2016, <https://focus.kornferry.com/>.

McClelland's model is relevant to the subject matter here for the following reasons. Firstly, it provides sound research to demonstrate what motivates individuals in team dynamics. This includes but is not limited to business teams and sports teams alike. Moreover, his research, though American-focused, has been used globally to assist businesses and teams across continents including but not limited to groups such as Korn Ferry Group, which advises large businesses.²⁰⁷ This suggests that his paradigms do cross cultural borders, which is relevant here when looking at Australia, the United Kingdom, the United States and others.

As will be seen in the following chapter, the NFL and NCAA are safe groups of focus that exemplify the instability as well as the subversion and undermining of these needs in American society. Unlike MLB, the NBA, and the NHL, which provide guarantees at a certain point, the NFL and NCAA do not (even despite the NCAA not paying its athletes). As a result, the experience of these athletes is more indicative of the American worker's experience since they too are subject to at-will employment without a safety net. There is an element of hyperbole in the football point of focus, however, since the nature of the marketplace is enormously competitive, with no end to the availability of college-graduating athletes waiting in line for one of 47 players suited up on game day in the NFL. Therefore, having non-American athletes provide their first-hand experience is helpful in analyzing how the American model functions differently from other industrialized nations. In this sense, it is an effective way of better understanding the American model from the perspective of outsiders, and this lends itself to a better understanding of how study tours and other similar endeavors need to be cautious when aiming to apply American paradigms to their own markets and cultures. Simply put, understanding how things are done in America, and then

²⁰⁷ Korn Ferry Group, "Korn Ferry's Motivators in Talent Management."

simply applying this paradigm to Australia, is not a recipe for success as it lacks an understanding as to why such a model works, let alone exists, in the American landscape.

At-Will Employment and Sport

Through the recounting of the experiences of Australian athletes in America, insight into how the at-will employment doctrine is perceived by, and impacts life for Australians working within this foreign system, can be gained. Though it cannot be known how that same system would work entirely in Australia, acknowledging that this survey only tackles it from Australian athletes' perspective while in America and surrounded by Americans, its perception can be examined for its own relative merits and/or detriments. The impact of American doctrine on its citizens is clear, but also of concern is how it has been applied internationally. This instability in the workforce does manifest itself within the various subcultures across the United States, as shall be demonstrated in the many experiences of Australian athletes who compete in American sport. Even after many years that the author has spent outside the United States in Europe, Asia, and Australia, it was only when reading the accounts of Australian athletes in the United States that a saying from my childhood came to mind. Even if one was early for the school assembly to get a seat, everyone knew that once you're 'on your feet, [you] lose your seat'. It did not matter that you prepared and worked harder to get there earlier; if the bathroom called and you left your spot, it would not be waiting for you. The notion of not losing your seat is analogous to how athletes, and anyone else from abroad working in the United States, finds this to be peculiarly American. It does not matter if you do a good job: United States law is clear that one can be fired without good cause, just as a professor could give out an F even when an A+ was earned.

The AFL and NRL have both adopted many management practices of the United

States. In his PhD thesis, David Nadel discusses what professionalization has done to the AFL. Doing so has included, but is not limited to, a draft and an American form of salary cap.²⁰⁸ The fact that Australia has the 2016 Fair Work Commission does keep those in Australian sport at lesser precarity than those in America, but the paradigms learnt from the world's largest economy and largest sports entertainment market cannot be overlooked. As exemplified earlier, this is not limited to the sport industry, since one can even observe universities withholding payment from professors as well. Currently, there is an ongoing battle of sorts between the NRL and the Rugby League Players Association (RLPA) simultaneously occurring with the league's plans to play a round in Las Vegas. In this context, the RLPA's Clint Newton has stated that:

... the players need to be paid what they are owed, pre-covid reductions and we need a long form CBA in place ... Come October 31 this year, there is no CBA in place. That will be a first of its kind since CBAs came in place in rugby league more than 20 years ago.²⁰⁹

Conclusion

The notions of at-will employment have evolved as the global marketplace has done so. Thus, the employment status for sport figures has necessarily changed, particularly as amateurism has given way to professionalism in many different sports. The research uncovered supports the notion that at-will employment law, and the fear of losing one's position, is important for understanding the sporting culture of Australia as well as that in the

²⁰⁸ David Mark Nadel, 'The Professionalisation and Commercialisation of Australian Football, 1975-1996' (PhD thesis, Monash University, 2000).

²⁰⁹ Clint Newton, cited in Chris De Silva and Lachlan Harper, 'NRL Boss Reveals Real Casualty of Players' Boycott/Players Only Hurting Fans with Media Boycott, Says NRL CEO Andrew Abdo', *9 News*, 5 July 2023, <https://www.9news.com.au/nrl/news-2023-players-announce-boycott-of-media-rlpa-negotiations-reach-breaking-point/d84c97b5-ea14-46e5-b7d1-04b4d760133f>.

United States as the global employment picture has changed, again, as a result of Americanization on both the labor and sport scenes.

The notions of at-will employment have evolved as the global marketplace has done so. Thus, the employment status for sport figures has necessarily changed, particularly as amateurism has given way to professionalism in many different sports. The research uncovered supports the notion that at-will employment law, and the fear of losing one's position, is important for understanding the sporting culture of Australia as well as that in the United States as the global employment picture has changed, again, as a result of Americanization on both the labor and sport scenes. This shift is evident in the increasing use of performance-based contracts in Australian sport, where player tenure is often contingent on form, fitness, and marketability rather than long-term security. Furthermore, clubs and franchises have adopted at-will principles in their hiring and firing practices, particularly in codes such as Rugby League and Australian Rules Football, where player movement and contract terminations reflect a more flexible, employer-driven model. These developments underscore how the Americanization of labor relations has shaped the expectations and experiences of professional athletes in Australia, mirroring broader trends in the global workforce.

Chapter 3: Evolution of Rugby League Prior to Direct North American Influence

This chapter provides an in-depth the arc of Rugby League codes in Australia prior to greater “contact” with American ideas (i.e., Americanization). Americanization through the lens of the Great Rapprochement shall be explored, as will how the United States, gradually moving away from their English roots in fashioning their sport codes, eventually coincided with the United States becoming a worldwide cultural hegemon, in language as well as in the culture of athletes as celebrities. The later intersection of Americanization with Australian sport codes shall be explored, leading up to, in a later chapter, a greater investigation into Australia’s first ever “superstar” athlete who came to the United States, Pat O’Dea. Some key points include Sean Fagan’s research, published in *The Rugby Rebellion: The Divide of League and Union*, which pointed to a crucial match in 1901 between Hunslet and Leeds that demonstrated a mix of playing styles between rugby union and rugby league (Northern Union), serving as a potential forking-off point not only for the two codes but also a waystation on the symbiotic Australia-to-American talent-and-rules pipeline. Furthermore, the historic connection between Australia and the United States must be noted, given that not only do the two nations share a common language and elements of a common history, given as they both, at different times, emerged from the adventures of the British Empire, the two nations have continued to melded in terms of economic interests, wartime alliances (WWI and WWII being noteworthy), as well as modern avenues of cultural exchanges including popular culture and sport. While the focus here is primarily on sport, and the exchange of talent between the two nations’ having influenced each nation’s sport codes in turn, the historic relationship between the two countries represents but one avenue to examine this crucial pan-Pacific relationship. Americanization of employment practices as it bears on this discussion will also be included.

Introduction

The nature of Americanization in sport takes many forms, so here the aim is to discuss the ways in which this has been the case for rugby league. This chapter is not limited solely to the influence that US sport has had on the game since the increasing presence of American culture has been present in Australian and global life thanks to popular media and various outlets of the media's industry's exhibition wing thanks to such formats as cable TV/Foxtel and streaming. There exists a long tradition in which the rugby league has both pioneered innovations in the sport while also looking outside its own dominion to American football, a trend that largely began in the late 1950s for the RFL in England and late 1970s/early 1980s in Australia.²¹⁰ There are instances of potential influences going all the way back to the early 1900s, which stemmed from the US and Canada maintaining traditions and laws of the game long forgotten and moved on from since the days of England and its empire; this is consistent not just in sport but, as will be demonstrated, culture at large as well. Yet, the proliferation of Americanization comes about in England and Australia in terms of laws of the game in the aforementioned time-periods, respectively.

It is important to understand, as previously alluded to, that rugby league has pioneered its own innovations, but these came from looking within its own history and its existence adjacent to rugby union, to which the latter code has copied, borrowed or paid homage (depending on one's cultural analysis of the history) to the code that broke off from it. Tony Collins extensively writes and discusses about how rugby union frequently has looked to rugby league in many of its own law changes regarding matters both on and off the field.²¹¹ He also has discussed how rugby league has not really ever borrowed from rugby union. It appears that rugby league has made its own decisions in solving its own evolutionary conundrums and innovated by looking to American and, to a degree, Canadian sport while

²¹⁰ Collins, "Rugby Reloaded."

²¹¹ Collins, "53. The 50-22 and the Evolution of Union and League."

viewing itself domestically in contrast to rugby union.

Many will associate the Americanization of sport solely with halftime shows, cheerleaders, TV broadcast rights, advertising dollars and all of the otherwise-tertiary aspects surrounding the sporting event itself. However, these represent only a small part of the story and why professionalism, in its goal of entertaining viewers over participants, heavily contributes to changes in the laws/rules of sports. Likewise, those following rugby league who ponder its Americanization have their minds on two of the coaching greats of the game: Jack Gibson and Terry Fearnley are the first mentioned in the lead-up to any discussions of American football.

The Super Coaches and the Founders

Fearnley and Gibson are known to many as some of rugby league's "Super Coaches." They are largely credited with bringing American sports training regimens and mentality to Australia's world of rugby league. Arguably, they were the first of their kind to do so in Australia, at least in their era of the 1970s.²¹²

It was Fearnley who introduced Gibson to the teachings and ways of NFL supercoach Vince Lombardi. Greatly inspired by the American's video on how to give a better sales presentation, "The Second Effort," and Lombardi's American gridiron ways became milestones in both men's coaching, training regimens, professionalism and strategy.²¹³ Gibson's great "Parramatta Wall" employed similar tactics of deception traditionally only known in the North American codes and in Fearnley's use of the "Flying Wedge" a few years

²¹² Apter, *The Coaches*.

²¹³ *Second Effort*.

earlier in 1975²¹⁴; it is interesting to note that the formation's origin comes from an 1880s Harvard play, which was in turn based on Napoleonic war tactics.²¹⁵

However, the rugby league faithful in Australia have every reason to not question this origin since Fearnley was also quoted saying that "Second Effort was the start of the American connection," as Apter recounts in 2013.²¹⁶ Unfortunately, by the time the two made their pilgrimage to the United States in 1972, Lombardi had already passed away. However, the two became close with the San Francisco 49ers organization, which opened their doors to the two Australians.²¹⁷ Nonetheless, Lombardi's influence still was the first taste of American professionalism that Fearnley or Gibson had encountered, and this certainly did usher in the age of trans-Pacific influence both on and off the field.²¹⁸

Upon returning to Australia, Gibson, with the help of Fearnley, also leaked information to Rugby League News about the professionalism in the US, as well as data on how much money broadcasting rights could bring in.²¹⁹ However, the process of rugby league being Americanized started long before this and, since much has already been written about this financial aspect of the game's change, the focus of the following will be more on what has not been already largely covered by others.

In 1926, the first biography was written on Walter Camp, a man widely considered to be the father of American football. Written by Harford Willing Hare Powel a year after Camp's death, the book is largely a hagiography of the deceased man, a marked difference from the more detached style of today's biography. Whatever the stylistic differences, one important point is clear: "unlike baseball, football had become extremely, if not entirely,

²¹⁴ Apter, *The Coaches*. p. 117

²¹⁵ Volk, "The Time Teddy Roosevelt Saved Football."

²¹⁶ Apter, *The Coaches*. p. 102

²¹⁷ Apter. p. 94

²¹⁸ Heads, "Terry Fearnley Obituary."

²¹⁹ Apter, *The Coaches*. p. 96

unrecognizable in the four decades since Camp had played and passed away.”²²⁰ It was not solely that the name changed from “American Rugby Football” to simply “football”²²¹, but that the rules evolved so far away from their origin that the gameplay itself could reasonably be given a different name and be considered a different sport that existed parallel to the current rules. The aforementioned change came about due to a great divide in 1896, and the same can be said about rugby league’s divide from rugby union in both its motherland of England and its most popular locale outside of Great Britain: Australia.

The game of rugby league originated at the George Hotel in Huddersfield in 1895²²² when a group of clubs, unhappy with the status quo of blue-blood amateurism in place to keep the labor class from being competitive with England’s middle and upper classes, decided to break off and create the Northern Union. This grouping marked rugby’s first step toward professionalism, and it could be argued it was English rugby’s first meaningful step towards doing so despite the fact that it was basically subsidized amateurism.^{223 224} When looking closely at what the Rugby Football Union defined as professionalism, anything and everything that was considered to have provided a form of off-field benefit to players was forbidden. Being able to fully support oneself was not the only type of forbidden compensation. Rather, any benefit that would help a player support themselves, whether monetary or favors as a result of playing on a team, were strictly forbidden. As a result, the idea that subsidizing an individual for the time he lost from work, whether to compete in a match or recover from an injury, is truly a far cry from what most people today would define as being “professional.” The overarching belief is that true professionalism today means one

²²⁰ Powel, *Walter Camp the Father of American Football*. p. 22

²²¹ Powel. p. vii

²²² “Northern Union / Rugby Football League (RFL) Minutes and Letters.”

²²³ “Northern Union / Rugby Football League (RFL) Minutes and Letters.”

²²⁴ Collins, *Rugby League in Twentieth Century Britain*.

can earn a living from playing a sport, however, this simply was not the case in terms of rugby league's origin or its ensuing history over the next 70 to 80 years.

The fact that the practice of shamateurism was rampant outside of and, at times, within England was never addressed directly by the Rugby Football Union, even after the split in 1895 (shamateurism being the practice of any level of professionalism while externally professing to be amateur).²²⁵ These changes were not limited to the far-away colonies such as New Zealand but even next-door in Wales, where defecting to rugby league still meant a life ban, but accepting favors in rugby union would be ignored so long as the Welsh Rugby Union reported to the Rugby Football Union in England that all activities under their purview were amateur.²²⁶ Many have written about how this status, in both Wales and New Zealand, explains why the Welsh, on 16 December 1905, were the only side to win against the famous 1905 All Blacks in their tour of the United Kingdom; both teams played more professionally than what was happening in England at the time.²²⁷ The reason why the RFU accepted these groups on their word of amateurism, without proof and despite clear evidence to the contrary, was largely due to the immense fallout and reduction in influence, players, and clubs, as well as the ever-increasing popularity of the once-underdog code of Association Football, also known then and now as "soccer," which had professionalized in 1885-1886.²²⁸

According to Bill Murray, soccer had even emulated the American model used in professional baseball, which had adopted the player payment model decades earlier.²²⁹ But, as far as the Rugby Football Union was concerned, this was a travesty. The story propagated by the RFU in regards to the beauty of amateurism backed into its own conclusions citing the values promoted in the Muscular Christianity movement. However, it was really more of a

²²⁵ Martens, "They Stooped to Conquer."

²²⁶ "BBC Two - The Rugby Codebreakers."

²²⁷ Collins, *A Social History of English Rugby Union*.

²²⁸ Lloyd and Holt, *The F. A. Cup*.

²²⁹ Murray, *The World's Game: A History of Soccer*.

form of social control. As Szymanski and Zimbalist point out, when soccer went professional, the playing field was levelled for people of all socioeconomic backgrounds. The equalization was based on English soccer emulating American National League baseball; even today, both do not have salary caps.²³⁰ Applying such a cap was not acceptable to those who founded and controlled the game of rugby union. Rather, this guided their decision to draw the line and enforce it with their code at all cost for fear of what they viewed as their game going to the masses.²³¹ In short, the blue-collar masses not only had the opportunity to meet the blue bloods on the pitch but were now also beating them on the pitch in soccer. Taking a step back, this seems peculiar given that a modern analogue: Nobody would expect a world-class violinist or other musician to perform for free but, with sport, it was a completely different story.

Sport, Class, and Money

While all of these traditional class struggles and debates about monetary compensation were occurring over in England, professionalism in American sports had already been part of the domestic culture for over four decades, most prominently in baseball, given that there were no cultural constraints against such when compared to the, at the time, English colonies. Though this would entail an essay in and of itself, the US had adopted its own version of empire on the North American continent in the form of the Monroe Doctrine and manifest destiny to extend its territory to the Pacific Ocean. Socially and politically speaking, the US continued the British trend of growth but with its own twist. In this sense,

²³⁰ Szymanski and Zimbalist, *National Pastime*.

²³¹ Szymanski and Zimbalist.

rugby league, though the first of its kind in England of the oval ball codes, was straddling two identities, the blue-collar nature of association rules adopted into professionalism in 1885²³² and its closest compatriot football code despite coming from blueblood leadership and athletes, of rugby union, from which it broke in the form of blue-blood rugby union. The reality of these two identities can be appreciated in as much as rugby league would be compared to rugby union's amateurism, from which it broke off, as well as an early versions of full professionalism that came from association football. At the point of origin, rugby league was not in a position of defining itself for its own purposes but was also existing by defining what it was compared to. In many ways, this still holds true for rugby league in the global world with phrases like "thugby league"²³³ having been prevalent in Australia for some time and the ongoing discussion around social class and rugby league even today in England.²³⁴

Inevitably, the Australian administrators, meaning presidents and members of decision-making committees, looked to other codes and clubs for influence beyond their direct sphere of influence: to Great Britain and to the U.S. for research and development, as well as to new ideas and philosophies. Rugby league also had reason to look towards American football not only because it was not an amateur competition similar to like rugby union or a professional organization like Association rules, but also because it sat at the crux between professionalism and amateurism. The key difference between rugby league's semi-professionalism/subsidized amateurism and that of America and Canada's college gridiron is that the latter's players are not openly paid at all but rather they are compensated in other ways while at university. In talking about the differences, it is still not to say that there is not an element of shamateurism that existed in the United States and Canada similar to that of

²³² Lloyd and Holt, *The F. A. Cup*. p. 22

²³³ "Can Channel 9 Stop Calling Nrl Footy."

²³⁴ "Making the Grade."

Wales and New Zealand in pre-1995 rugby union, but by providing room, board, and for other living needs, an analogue would be the stipends awarded to British rugby league players to take care of the same/similar expenses. It is also fair to argue that doing so is more similar to the favors and jobs provided to rugby union players to avoid open direct payment. Nonetheless, only the rugby league in this discussion was entirely clear about player payments and compensation whereas the others were at best opaque.

Professional Sports' Rise in America

In both the US and Canada, professional sports were ascendant years before what would become the Football Association (FA) in England. In American baseball, Cincinnati launched the first professional team in 1869, the same year football rivalries were marked by players switching clubs²³⁵, a concept that lingered longer in Australia and England but has since receded with the introduction of the AFL draft and higher wages but was then and now commonplace in the ethos of American professional sports.²³⁶ In a 2017 letter to a young boy on why he should support his local club, the Pittsburgh Pirates team president Frank Coonelly stated that part of his love for the team lay in its name's history, commencing in 1887, with Coonelly stating, "We are called the Pirates because we were alleged to have stolen players from other teams by paying no mind to a purported 'gentleman's agreement' to stay away from players who had formally been contracted with another team."²³⁷

Clearly, loyalty meant something very different in the professional ranks of Major League Baseball versus in England and even in America's college football program, a game still heavily amateur in practice and in ethos 130 years ago.

²³⁵ "Cincinnati Reds History on Baseball Almanac."

²³⁶ Nadel, "The Professionalisation and Commercialisation of Australian Football, 1975-1996."

²³⁷ Landers, "This Dad Wrote to Every MLB Team Asking Them to Win His Young Son's Fandom."

However, it is important to understand that the flow of ideas even during this time was quite fluid. Not only was the period known as the Great Rapprochement (1895-1915) a time when American political and economic structures were being learned and adopted by Great Britain, but there was also a great interest in the American way of engaging in everyday activities.²³⁸ Perkins made it even clearer that this age, from the English perspective, had one goal and two approaches. The goal was to guarantee the continued power of the British Empire, especially in light of recent skirmishes across the colonies, such as the Venezuelan Crises of 1895 and 1902-1903, as well as the conflict over the Guayana Esequiba, both of which were, arguably, predecessors to the Falklands War, which came finally in 1982. The desire to maintain power utilized a new tactic in creating a sort of new “English speaking” empire without formal ties to the Crown, and this brought the United States into play as a very strong potential ally. The two main tactics employed by Great Britain to do so were 1) learn from the Americans and adopt non-conflicting economic, government and social policies, or, if not, to at least be aware of them; and then 2) begin the process of assuaging the past 120-some-odd years of American-based Anglophobia that had remained since the American Revolutionary War.

Though the main aims of this period were geared more towards formal domestic and international policies, it appeared to also have had a cultural trickle-down effect wherein Americana began to become a sort of exotica in everyday culture. An example of this is *The Athletic News*.²³⁹ Though likely seen as insignificant at the time, there was discussion about the unorthodox American rowing stroke combined with an interest in reverse engineering the technique across the pond.²⁴⁰ It is all too fitting that the previous article grapples with

²³⁸ Perkins, *The Great Rapprochement: England and the United States, 1895-1914*.

²³⁹ “The Athletic News, Monday, July 27, Laihi | Athletic News | Monday 27 July 1896 | British Newspaper Archive.”

²⁴⁰ “The Athletic News, Monday, July 27, Laihi | Athletic News | Monday 27 July 1896 | British Newspaper Archive.”

professionalism and the following with the fact that, “football professionals have become the subject of barter.” At the same time, Americans were experimenting and making due with the tools and somewhat limited access to traditional English equipment in sports like squash tennis during the 1880s.²⁴¹

These transatlantic sporting interactions illustrate more than incidental curiosities; they reflect a broader pattern of cultural and athletic exchange. British observers took notice of American adaptations not just out of novelty, but because they hinted at new efficiencies or shifts in thinking. The rowing technique example, when placed alongside conversations around player commodification and equipment improvisation, suggests an early receptiveness to American ideas, even if not always acknowledged. Such moments mark the beginning of a two-way dialogue in sport, wherein both nations selectively borrowed from one another based on perceived utility, circumstance, or cultural appeal. These exchanges foreshadowed the more formal sporting influences that would emerge in the decades to follow.

The even stronger proof of reduced tensions on a social/non-governmental level can be seen in the way that American Ivy League universities were then poaching top athletic and sports coaches from England.²⁴² These were the universities that produced past and future presidents, legislatures and judiciary, so their having Englishmen in their midst demonstrates a positive correlation. An example of this can be found in Theodore Roosevelt, who is arguably the man who, while President of the United States, stepped in and saved American football in 1906 but simultaneously publicly rejected an allegiance to the Crown of Great Britain and greatly frowned on the idea of any sort of ‘hyphenated-American’.^{243 244 245} The advantage was not one-sided, however, as these great coaches were not being paid to perform

²⁴¹ Squires, *Squash Tennis*.

²⁴² Young, *The Romantic Revolution in America*.

²⁴³ Jardins, *Walter Camp*.

²⁴⁴ Miller, *The Big Scrum*.

²⁴⁵ Roosevelt and Davidson, *The Wisdom of Theodore Roosevelt*.

their functions back in the United Kingdom, largely due to a culture that had a strong disfavor for athletic professionalism, let alone professional jobs solely for training these athletes.

Not paying players, plus diminished earnings for a coach compared to the United States, is likely why the captain/coach as a singular person lasted even into the 1970s in the U.K. and Australia. For example, Bob “Bozo” Fulton was the last of the “high-profile” captain/coaches in Australia, and this was as late as 1979²⁴⁶, eight years after Terry Fearnley and Jack Gibson made their journey to the US to learn from their late proverbial prophet, Vince Lombardi.²⁴⁷ Lombardi, never one for subtlety, was widely known for his attitude as well as the famous quote: “Winning isn’t everything, but it is the only thing.” Though the quote’s origin is likely of an earlier vintage, and came from UCLA’s Henry Russell “Red” Sanders, Lombardi often said he was misquoted, and his intended saying was, “Winning isn’t everything. The will to win is everything.” The more widely known interpretation still embodies the mentality of greater emphasis on winning in competition in the US^{248 249} Because players are still not paid by the universities they play for, and the odds of making the NFL or even the CFL are so slim, this level of competitiveness against one’s own teammates is still prevalent. With a roster even larger than the NFL, a team has more athletes to fill the same 11 spots for offense, defense and special teams; this further compounds the competition.

The Great Rapprochement and Americanization

Had English trainers and coaches of the Great Rapprochement not found full-time employment in the United States, they would have likely been forgotten by history as men

²⁴⁶ Apter, *The Coaches*. p. 151

²⁴⁷ Apter.

²⁴⁸ Michener, *Sports in America*.

²⁴⁹ Matoren, “Why No One in the NFL Wants Tim Tebow.”

who were ahead of their time had they remained in a culture lagging 70 to 80 years behind professional sports. Instead, they became the cornerstone of physical training across the ocean in a culture that had already embraced sport professionalism.

Though deeper discussion of this phenomenon is needed to achieve a greater understanding of its origins and importance, the focus must here remain on how rugby league began and continued its journey of Americanization through direct contact with the British, and later Australia, as well as indirectly via the colonies such as Australia experiencing contact through an English lens; and, lastly via Australia's links to England, chiefly when the ARL/NRL began to financially eclipse the RFL.

For purposes of this research, Americanization comprises three major facets. The first is an adoption of true professionalism as opposed to subsidized amateurism, i.e., semi-professionalism versus unpaid/unsubsidized amateurism. The second is the primary focus of sport as a form of entertainment for viewers and that the personal enrichment of athletes and coaches is secondary to guaranteeing, for example, parity of competition for the viewers' amusement. Finally, though arguably a result of the former, was the change in rules that promoted the emphasis of a use-it-or-lose-it ultimatum on the offense and possession over position. In short, one must use the ball within limited downs, a shot clock and other similar mechanisms and cannot continue to hold possession of the ball indefinitely in US sports. There is even now a pitch clock in baseball. The ways in which these three components became an active part of rugby league's evolution requires an understanding of the initial impetus and desire to change.²⁵⁰

While the origins of Rugby League have been referenced earlier, this section reexamines them through a cultural and socioeconomic lens, which is critical to the comparative argument that follows. As Tony Collins has already documented, rugby union seems to never

²⁵⁰ Kassimir, "Cousins but Not Brothers."

have openly barred people from lower socioeconomic groups.²⁵¹ However, it is quite clear that they did require that playing be done under their rules while adhering to strict social conventions. Accordingly, any payment or compensation was both strictly frowned upon and eventually made illegal; doing so would result in a lifetime ban from playing the sport. Though seemingly a fair way to maintain the gentlemanly pursuit and pure “spirit” of the game as defined by Huizinga²⁵², it also prevented those of the working classes from competing since the financial risk due to injury was too great lest they miss out on crucial workdays²⁵³ needed to survive. This is why the competition, then known as the Northern Union, was created and eventually became known as the Rugby Football League when the dissatisfied clubs of the north met at Huddersfield’s George Hotel in 1895.

The 1895 decision was in direct response to the economic matters of players and did not have anything to do with the laws of the game provided by rugby union. Ergo, the status quo was largely maintained until 1906.²⁵⁴ However, it was a clear cultural statement to the wealthier, rugby union-playing class of England’s public schools (private schools in American and Australian terms) that those of financially less wealthy backgrounds also had the right to play the game and not be kept out due to rules of amateurism that acted as a barrier to entry. Doing so was also just as much a statement to the Association rules-playing working classes that the rugby game was their own code and the round ball sport was not. The dual-edged ethos here directly reflects the resulting decision in making the game of northern union (rugby league) a version of what today would be known as semi-professional or subsidized-amateurism. Modest sums of money were paid to players to supplement the work they were missing while playing and/or that they would be missing as a result of

²⁵¹ Collins, *Rugby League in Twentieth Century Britain*.

²⁵² Duncan, *Footy Grounds to Grandstands*.

²⁵³ Collins, *Rugby League in Twentieth Century Britain*.

²⁵⁴ “Sporting News. | Yorkshire Post and Leeds Intelligencer | Wednesday 13 June 1906 | British Newspaper Archive.”

potential injury. The result for rugby league is a direct manifestation of being situated between the union's financially elitist amateur approach and the association's greater degree of financial compensation/paid professionalism.²⁵⁵

As a result, it is reasonable to see Northern Union's decisions as a part of larger trends. While the rule changes in rugby league were not directly dictated by diplomatic policy, they occurred within a cultural and ideological environment shaped by the Great Rapprochement. The broader trans-Atlantic mood of convergence, pragmatism, and reform allowed for parallel developments across sport, law, and governance, each reflecting a shared move toward greater efficiency, access, and modernization. The Great Rapprochement was a time where American governmental, ideological and economic policies were being adopted by England in its efforts to establish a new kind of English-speaking empire in light of Great Britain's difficulties in places like Venezuela in the Venezuelan Naval Blockade December 1902 – Feb 1903, and a desire to assuage 100 years of Anglophobia in the United States following the Revolutionary War.^{256 257} It is reasonable to also see the parallel that these practices from the contemporary ideology extended to not only the highest levels of business and government but also trickled down to culture and sport as well.

Rules Changes

With the zeitgeist already in favor of trans-Atlantic cross-pollination, it is interesting to point out that the major turning points in both the rules of American football and rugby league happened in 1906. One change was the reduction of players on the field from 15 to 13 to open the playing field. Though this is partially a continuation of rugby union originally

²⁵⁵ "Northern Union / Rugby Football League (RFL) Minutes and Letters."

²⁵⁶ Perkins, *The Great Rapprochement: England and the United States, 1895-1914*.

²⁵⁷ Perkins, *The First Rapprochement*.

having reduced the number from 20 to 15 in 1877²⁵⁸, 1906 was also the year that the rules of American football were changed directly for the same purpose of spreading the field, albeit for safety purposes after 18 college men died playing the previous season.²⁵⁹ Because of all of this change, Albert Baskerville also reached out to both Walter Camp and David Starr Jordan (Stanford's president), also in 1906, with the hopes of growing professional rugby of either code. His letter to Camp was written in March 1906, which would have been at least a few months before rugby league had the play-the-ball and 13-man rule change. His letter to Starr was not written until 10 December 1906.^{260 261} What is interesting is that he likely would not have been aware of the rule changes when writing the first letter but would have by the second. In the case of the latter, California had strongly rejected a switch to American football in favor of rugby union.²⁶²

Because both Camp and Jordan were proponents of amateurism, to all known accounts neither replied, which is odd in Camp's case since he did retain a copy of the Victorian Football League's constitution, which is still housed at Yale.²⁶³ The VFL did practice shamateurism as some were paid prior to 1911, when they permitted payment but also permitted no payment.²⁶⁴ For example, clubs such as Melbourne opposed payment.²⁶⁵ Rather, Tony Collins makes an astute point that Baskerville's attempt at luring the two football and collegiate leaders towards rugby league with the greater promise of financial earnings may have driven interest away from the now-13-man rugby code. Nonetheless, Camp did not ignore the Northern Union (RFL), and even wrote in regards to the sport in his 1911 article

²⁵⁸ Griffiths, *The Phoenix Book of International Rugby Records*.

²⁵⁹ Miller, *The Big Scrum*.

²⁶⁰ Baskerville, "Baskerville to Camp."

²⁶¹ Baskerville, "Baskerville to Jordan."

²⁶² Collins, *How Football Began*.

²⁶³ "Yale Archives Camp (Walter) Papers."

²⁶⁴ Joel, Turner, and Hutchinson, "'Playing Dead' and Killing Off Amateurism."

²⁶⁵ Joel, Turner, and Hutchinson.

titled “Rugby Football in America.” Camp wrote openly about how the Northern Union is not true professionalism since they are only paid for broken time, he does demean the players, stating how even this form of payment “detracts from their amateur standing.”²⁶⁶ Still he does note the greater skill of the Northern Union players compared to the “more mediocre play.”²⁶⁷

Though not the main focus here, 1912 also brought about a different form of American presence in the game of rugby league. Lucius Banks would be the first American to play professional rugby league, the first trans-Atlantic rugby league player, and the first Black athlete to play professional rugby league. His experience growing up in Virginia, being born only around 20 years after the American Civil War, would have greatly shaped his life, but not only did he achieve the above and bring the presence of Black Americans to rugby league in England, he also enjoyed a successful career in Boston after returning to the United States. Though this trend was not repeated frequently, one may also look at the life of the recently deceased Manfred Moore (1950-2020), who played for Newtown in the NSWRL. Banks’s experience still serves as an example of the international and transatlantic zeitgeist as it existed 110 years ago.²⁶⁸ While a more detailed biographical account of Banks’s life is certainly warranted, his inclusion here is intended to illustrate the broader transatlantic and cultural context of the era, rather than to serve as a comprehensive case study.

With that said, the key change as of 1906 in rugby league, which requires in-depth review, is the adoption of play-the-ball as the preferred method in defining possession from the point of tackle. In all ball-carrying football codes, it is crucial to define the rules of possession after the point of a tackle to keep the ball in play. Doing so is in contrast to the association game, where the ball is only and more rarely possessed by the goalkeeper. The

²⁶⁶ Camp, “Rugby Football In America.”

²⁶⁷ Camp.

²⁶⁸ Collins, *Who Framed William Webb Ellis*.

frequency in which this occurred in other codes increased and required clearer protocol.

Showing his distaste for the status quo, Rugby Football League Secretary Bill Fallowfield wrote the following in his article “Play the Ball”:

If the legislator who, in 1906, first suggested that the tackled player should be made to rise to his feet with the ball in his hands could have foreseen the Subsequent controversies and discussions that would result from his action, he might have had second thoughts. I am sure that he never envisaged that the further development of his idea would lead to teams being able to monopolise possession for minutes on end by playing the ball consecutively 50 or 60 times.²⁶⁹

Unfortunately for Fallowfield, his opinion lacks some requisite knowledge that the play-the-ball was in fact the original way to continue play after the tackle in pre-split rugby up until 1878.²⁷⁰ The year 1906 merely reintroduced these rules, which resulted in an arguably more traditional style of gameplay. Newspaper articles confirm that this was common knowledge among the average person in 1906²⁷¹, and the same was the case in the Australasian colonies.²⁷² Less than 50 years later, this was information to which Fallowfield seems not to have been privy during his tenure as secretary of the RFL. However, this is not to say that the play-the-ball had not changed during the 28 years away in England (1878-1906) and 30 years in Australasia (1878-1908). Rugby league became the more authentic of the two codes in specifically this sense because reinvigorated the old ways of what to do after the ballcarrier has been tackled, despite rugby union’s longer existence as a single organized entity having changed the laws. I say this with deference to other longstanding features of rugby union, such as lineouts and its 15-a-side structure, which clearly reflect deep tradition. Nevertheless, in terms of post-tackle continuity and the contest for possession, rugby league

²⁶⁹ *John Player Rugby League Yearbook*.

²⁷⁰ Fagan, *The Rugby Rebellion: The Divide of League and Union*.

²⁷¹ “Sporting News. | Yorkshire Post and Leeds Intelligencer | Wednesday 13 June 1906 | British Newspaper Archive.”

²⁷² “Pakeha” (pseudonym for white New Zealander), “Football.”

may be seen to have preserved or revived an older approach that union left behind.

With that, there is some debate on whether or not play-the-ball is truly an American invention that was introduced into the laws of English Northern Union or merely a forgotten, long-abandoned relic of earlier English football codes that was reintroduced in 1906. Tony Collins also cites sources similar to the previous two newspaper articles that there is a clear history of play-the-ball in pre-split rugby and, therefore, it is not new to the game at all.²⁷³ From this, it is quite possible to glean that play-the-ball was of the old guard, became a lost art, only to be reinvented and reinvigorated thanks to those abroad in the US and Canada who kept the tradition, albeit at the result of changing certain aspects of it.

However, the nature of losing a custom, idea, or way of doing things is not limited to sport, and it is not unheard of that various aspects of life that pertain to language, law and culture do maintain a longer and stronger presence abroad than in their country of origin.²⁷⁴ The relevance here of looking outside of sport is that history demonstrates repeated instances of ‘losing’ technology, language, sport, ideas and concepts, only to have them reinvigorated by those who held onto these morays. For example, the French language as preserved in French-speaking Canada²⁷⁵, and the Spanish language known as Ladino²⁷⁶, as preserved by the Sephardic Jews expelled by 1492’s Spanish Inquisition, are both grammatically and linguistically more archaic and strongly rooted in the respective periods of their separation from their motherlands. Direct examples can be seen in simple profane phrases that refer to the Catholic liturgy as “tabarnac!,” an expression of disgust referring to the tabernacle that is

²⁷³ Collins, “Unexceptional Exceptionalism: The Origins of American Football in a Transnational Context | Journal of Global History | Cambridge Core.”

²⁷⁴ News, “Spain Helps Keep Alive Archaic Language of Sephardic Jews.”

²⁷⁵ Vendryes, *Language*.

²⁷⁶ “Ladino, the Sephardic Language - Judeo-Spanish Judeo-Espagnol.”

no longer heard in France but is still in use in French Canada.^{277 278} An English analogue would be if someone yelled out the 16th century word “zounds” (“god’s wounds!”). The same can be said for the grammar of Ladino Spanish that, despite having brought in some loan words from Turkish, still used the plural of “you” as an exalting polite form, whereas the contemporary language now has a different conjugation for such.

The parallel of where this is the case with play-the-ball in rugby league can be observed quite clearly. Even in 1926, American football did not resemble the sport in the way it was once played, even at the time Walter Camp played.²⁷⁹ The late Camp’s biographer, Harford Powel, states how just between the few decades in which Camp played both American sports at Yale, “baseball uniforms were similar to those worn now, and the general strategy of the game was the same.”²⁸⁰ Football has changed much more. Only the halfbacks and fullbacks retain the same name, and their duties are very different.”²⁸¹ Therefore, the first way in which the ball was played was through heeling the football backwards. The way in which the ball was played later evolved to rolling the ball backwards with the palm and eventually snapping the ball back, much as it is done today.²⁸² It is no accident that today’s game of rugby league has grappled with the need to make a decision on whether or not playing-the-ball still requires the use of the foot. Identically to what happened in America and Canada’s 1879-1880 ending of the contested scrum²⁸³ that required both sides to compete for the ball with the foot, it seems both fitting and overdue that the issue be addressed in rugby league today since enforcement of the law has been inconsistent.²⁸⁴

²⁷⁷ Dosowitz, “The Delightful Perversity of Québec’s Catholic Swears - Atlas Obscura.”

²⁷⁸ *How Similar Are Québec French and Metropolitan French?*

²⁷⁹ Powel, *Walter Camp the Father of American Football*.

²⁸⁰ Powel.

²⁸¹ Powel.

²⁸² Powel.

²⁸³ Goodman, “Why the Uncontested Scrimmage?”

²⁸⁴ Clarke, “Phil Clarke Says the Play-the-Ball Area Should Not Be Ignored.”

It is interesting to point out that the trend in the mid-1870s in Canada was the turn from a packed scrum to a flat-line scrim.²⁸⁵ Though the packed scrum bore little to no resemblance compared to today's game in both union and league, the change to the flat line clearly demarcates a poignant break with tradition even though it retained the active contest over the ball. This would continue to change even more so in the next few years with the advent of no-contest. Concerning the origin of ending contest in New England, the first intercollegiate game of American/Canadian football was played between Massachusetts's Harvard University and Quebec's McGill University in 1874.²⁸⁶ In this respect, these schools were in fact playing a hybrid/compromised set of rules in their game based on the former's preference for what was known as the Boston Game²⁸⁷ and the latter's for rugby union.²⁸⁸

Whereas the Boston Game bore more resemblance to today's Australian and Gaelic Rules, rugby union in many ways is far removed from the game rules we know today. For example, this game and the actions following the tackle would have been played under something more similar to the play-the-ball rules of rugby league since the adoption of releasing the ball in the tackle was not brought into rugby union until 1878.²⁸⁹ Even 23 years later, viewing the earliest recorded film footage of rugby in 1901's Dewsbury vs. Manningham, it is clear that the ball carrier attempts to rise to his feet after being tackled despite being tackled yet again in almost a hybrid fashion between today's laws of union and league.²⁹⁰

²⁸⁵ Collins, Conversation with Tony Collins - Facetime Audio.

²⁸⁶ "Our History in Images."

²⁸⁷ Oriard, "Gridiron Football | Sport."

²⁸⁸ Camp and Deland, *American Football*.

²⁸⁹ "Rugby Football Union - Catalogue Description - AGM and Subcommittee Minutes, Accounts and Corresp."

²⁹⁰ *Oldest Rugby Footage Ever - Hardcore Match*. 20-25 Seconds

As Sean Fagan was apt to point out regarding the refereeing and play in the 16 February 1901 match of Hunslet vs. Leeds, where there was a mix between rugby union and rugby league (Northern Union), “RL referee orders a scrum be formed after every tackle. In RU at this time some referees were also doing this, while others let play continue per the RFU & IRB Laws, which allowed a quickly formed “scrum” by as few as two players or as many as were “on hand””.^{291 292} The contents of the quote are even stronger proof that the above interpretation of the laws in the Dewsbury vs. Manningham game (also 1901) is consistent with the aforementioned analysis. That is to say that though the laws had changed over two decades, it is reasonable to believe that the way in which they were interpreted still could be seen clearly as similar. As suggested by Collins’s original quote, this seems most undignified compared to what is argued to be the return to a more gentlemanly style of play-the-ball of the colonies beginning in 1880, when Walter Camp and committee introduced the idea of the uncontested scrumage, wherein the ball would be heeled backwards as per the above.²⁹³

However, this theory is flawed and, though there is some truth in the middle, there is not a perfect analogue between what was done in the US and Canada compared to what occurred in Northern Union’s adoption of the play-the-ball in 1906. When viewing the earliest footage²⁹⁴ of rugby league from 1914, after the law change, in addition to the way written records describe the play-the-ball as introduced in 1906, it is abundantly clear that both the tackler and ball carrier are attempting to kick the ball forward in a fashion similar to that of the 1901 footage, but it is uniquely different. The play-the-ball was meant to be a “mini scrum”.²⁹⁵ “However, the brief clip it shows of the 1922 haka is neither the All Blacks nor

²⁹¹ Fagan, “Rugby Mauls and Rucks - RL1908.Com.”

²⁹² *Hunslet v Leeds (1901)*.

²⁹³ Goodman, “Why the Uncontested Scrumage?”

²⁹⁴ “1. Eng v Auckland 1914-114.M4v.”

²⁹⁵ Collins, “Maori, Kiwis and the Haka.”

rugby union. It is actually the 1922 Māori rugby league tourists playing New South Wales Seconds at the Sydney Cricket Ground, a game the Māori lost 31-14. As well as a long take of the haka, the footage is notable for showing an early version of the play-the-ball, which looks like a mini-scrum (as its originators intended).²⁹⁶ From viewing the footage, this is not an uncontested scrum like the North American gridiron codes but a contested way of resetting the game from the tackle. With that said, an issue arises when Walter Camp recounts in his book *American Football* that, at some previous point, the person nearest the ball became the “snapper-back,”²⁹⁷ similar to the tackled player now playing the ball, and that he had the option of kicking in any direction.²⁹⁸ As others have noted, the snap-back by the center playing gridiron did originate essentially as what is now associated with rugby league’s play-the-ball, where it would be heeled back. Researcher Timothy P. Brown has also shown how the American football was healed backwards, and there is a fantastic image provided in his 2020 book.²⁹⁹ It is worth noting how this practice still does occur, though it has been eroded in the NRL and, most notably, in England’s Super League, where rolling the ball back is largely considered acceptable practice despite being against the laws of the game. Doing so is especially fascinating since, as mentioned, this was the first step away from heeling the ball that Americans on the gridiron took before snapping from the American football position of center using the hand to directly give, usually, the quarterback the ball to start play, still between the legs, as is the case with the roll and heeling.

There are other conflicting accounts. As Robert Goodman pointed out in 1985, “it’s unclear whether Americans had experimented with single lines of scrimmagers before the AIFA [American Intercollegiate Football Association, the predecessor to the NCAA] adopted

²⁹⁶ Collins.

²⁹⁷ Camp and Deland, *American Football*.

²⁹⁸ Camp and Deland.

²⁹⁹ Brown, *How Football Became Football*.

the uncontested scrimmage. When Camp writes, “Then almost immediately it was discovered that a man could snap the ball backwards with his toe, and the American outlet was installed,”³⁰⁰ did he mean that Americans under the pre-1880 rules had tried the snapback? Or that an unmentioned Yours Truly had devised the method and brought about its adoption by rule?³⁰¹ It is difficult to say how much Camp knew about rugby in these formative years of the 1870-80s, but it is clear that, by 1911, he was very well versed in rugby league and how it differed from the southern union game. In reaction to Stanford defecting from American football to rugby union, he praised rugby league and showed his disdain for the west coast school’s decision to play the southern game by stating that, “the Northern Union game, especially in Lancashire and Yorkshire, would be [a] revelation to those who have merely seen the more mediocre union play.”³⁰² As will be discussed later in greater depth, in light of Camp’s constant fact-finding missions and research, one cannot help but wonder which ideas were uniquely his own or an adapted version of the games he saw elsewhere.

Not only does Camp fail to mention that he directly contributed to this change, he also doesn’t address whether or not this was an official change in the rules or merely an evolution of strategy from kicking and chasing the ball for position over to the heeling of the ball backward with the foot for possession.

For all of his many accuracies, Camp’s accounts are not to be taken as gospel as he too had vested interests in maintaining his control over the game. Frank Cosentino wrote of a game between the University of Michigan and the University of Toronto that took place a year earlier, in 1879, prior to Camp’s innovation. “One of the problems facing the new unions at this time was the fact that varying rules were used in each. For example, in 1879,

³⁰⁰ Camp and Deland, *American Football*. p. 32

³⁰¹ Goodman, “Why the Uncontested Scrimmage?”

³⁰² Collins, “Rugby Reloaded Podcast Episode 15: Rugby League’s American Dream.”

the University of Michigan in a game with the University of Toronto team, Varsity, introduced a major innovation. Michigan lined up with their forwards in a single line, and the ball was snapped out to the backs.”³⁰³ Yet despite this source essentially implying that Camp did not invent the snapback/play-the-ball, he still may have acted as the catalyst for its widespread adoption. Nonetheless, the result is still the same in reference to how the phenomenon clearly existed and was being practiced and proliferated in the US and Canada long after the original contested version had been abandoned by pre-1878 rugby union.

With respect to Camp’s earlier mention of kicking the ball in any direction, from the above recounting and primary sources, this act now very clearly seems to be true of the game prior to the advent of the heeling-of-the-ball method, which coincided with the introduction of limited downs just two years later, in 1882. The introduction of the latter fostered a greater emphasis on possession over position due to the new inability for an attacking side to perpetually maintain possession of the ball. It is still possible that the origin of the use of the foot, and later the hand, to snap/play-the-ball originally came from England and then mutated over the ages across the nations. However, this theory entails a good deal of potentially coincidental speculation, whereas there is a clear starting point in 1880 with Camp and committee instituting the protocols of the now uncontested scrummage.³⁰⁴ In fact, as per Collins, heeling the ball back was extremely frowned upon:

What’s more, the aim of the original rugby scrum was not to heel the ball back, but to push the ball forward through the opposing pack. Called ‘straight ahead propulsion’, this was seen by many in the RFU as the only real way of advancing the ball up the pitch. Heeling out was frowned upon... Even in the late 1890s, there were many in the RFU who believed that heeling the ball out of the scrum was a betrayal of the principles of the game. In 1896, former RFU president Arthur Budd proposed that ‘heeling out’ should be made illegal.³⁰⁵

³⁰³ Cosentino, *Canadian Football*. p. 14

³⁰⁴ “Minutes of the American Intercollegiate Football Rules Committee (AIFRC), 12 January 1906, Football Rules Committee Minutes, 1876,” Typescript.”

³⁰⁵ Collins, “The Evolution of the Scrum.”

Yet, despite all of the calls for banning the tactic, this practice prevailed, though it did lead to, as in North America, the ability for a perpetual possession of the ball until limited tackles were introduced. The main difference is that it only took two years to institute this reform for the gridiron but took until 1966 for rugby league.

Conclusion

It is reasonable to conclude Americanization did take place in many ways for rugby league from close to its inception. The way in which administrators shaped the sport in the early era of rugby league clearly demonstrated a willingness to break away from the rugby union and predominantly English way of doing things. However, being in England, there were still the overarching cultural aspects of life that dictated the decision-making. With Australia not as prevalent powerhouse as it is today in rugby league, much of the focus was still on England itself. However, this would not be the case once the limited tackled of 1966 were brought in even if they were spearheaded by, among others, RFL secretary Bill Fallowfield, a man who was not worried about continuing the rugby league tradition of tinkering with the rules as followed in American and Canadian football. This was unlike his contemporaries in English Rugby Union and soccer, who pursued a much more conservative approach in just allowing the rules to remain while the style of play changed around them, which is not limited to sport.³⁰⁶ The research shows, effectively, that Americanization of certain aspects of the game was indeed ongoing.

It is worth considering whether the shared developments in American, Canadian, and rugby league football were simply a reflection of external influence or whether they represent the only viable way for a rugby-derived sport to evolve once it diverges from its origins. Unlike rugby union, which largely retained its structural foundations while allowing styles of

³⁰⁶ Dundes, *Holy Writ as Oral Lit.*

play to shift organically, rugby league embraced a culture of modifying its laws to refine and reshape the game itself. This tendency, which was present from the sport's earliest years, meant that innovation became part of rugby league's DNA. However, once fundamental changes were introduced, such as the removal of the ruck, the introduction of the limited tackle rule, and a greater emphasis on structured set plays, the game naturally developed in ways that mirrored the path taken by North American football. If tactical fluidity, strategic stoppages, and increased emphasis on possession-based play are the logical consequences of continued rule modifications, then Americanization may not have been an external imposition but rather an inevitable outcome of rugby league's evolution. In this sense, the sport's gradual alignment with aspects of American and Canadian football was not merely a case of cultural borrowing but the result of a broader trend that occurs when a rugby-derived sport prioritizes spectacle, control, and structured athleticism over its original, more chaotic foundations.

Chapter 4: Evolution of Rugby League as a Result of American Influence

This chapter continues the inquiry into how rugby league gradually Americanized thanks to various rules changes such as play-the-ball and a game geared more towards possession. Walter Camp's influence on the game will be explored. Tony Collins' extensive work will again be cited in this chapter, as shall other sources such as Gavin Willacy³⁰⁸. While Willacy's text is not an "academic" source per se, it is well researched and provides a rather helpful history of how American athletes in the 1950s played Australian and New Zealand teams, shocking them with upset scores. This interplay between the athletes of the United States and those of Australia and New Zealand further demonstrates that, at times certainly, the relationship between the two sport codes would come into contact in unexpected yet productive ways.

Furthermore, as this chapter examines the evolution of rugby league rules where the gridiron is concerned, David Nelson's contemporaneous examination of the development of rugby league rules shall be reviewed in regards to their influence on American football plays such as the forward pass.

Wray Vamplew's inquiry in 'Playing with the Rules: Influences on the Development of Regulation in Sport' also provides valuable insight given his take on the 'rule-governed practice' came down from the English elite public schools of the nineteenth century, providing yet another avenue of influence on the game itself, particularly in terms of regulations therein.

Introduction

In the previous chapter, the early aspects of Americanization on rugby league were

³⁰⁸ Willacy, *No Helmets Required*.

discussed and reviewed. As will be demonstrated, this process would only amplify beginning in the 1960s. Simultaneously, there began a shift in power away from the RFL in England with the growth and increased power of rugby league's Australian competition(s), mainly New South Wales Rugby League, from both a competitive on-field and financial point of view. Though aspects such as the re-introduction of the play the ball can be attributed to people who remembered the pre-1878 ways of the sport, and there may be a still unproven connection with the English observing the evolution of the Canadian and American play the ball, which became an uncontested roll of the ball and then a snap with a flat line scrumage, this chapter will deal with the more substantial hard evidence, and active planning, that rugby league was put through in the process of Americanizing.^{309 310}

Americanization does not just happen in one direction emanating from the United States to other countries in a form of active soft power through traditional means such as media. The Football Association in England emulated American baseball's National League in player payments.³¹¹ This practice continues today as both Major League Baseball, to which the National League is a part of, and the Premier League both still lack player salary caps though the latter, for a time, did have one before embracing the American baseball model. Further overlaps between both codes and how soccer looked to baseball as well as the ways in which Americanization occurred are further elaborated on in Szymanski's and Zimbalist's *National Pastime: How Americans Play Baseball and the Rest of the World Plays Soccer*.³¹²

Gavin Willacy also discusses what some may call rugby league's "American Dream," which existed well prior to 2024's National Rugby League Las Vegas Round. Willacy

³⁰⁹ Goodman, "Why the Uncontested Scrummage?"

³¹⁰ Currie, *100 Years of Canadian Football*.

³¹¹ Murray, *The World's Game: A History of Soccer*.

³¹² Szymanski and Zimbalist, *National Pastime*.

discusses how, after the American tour of Australia and the subsequent tour of France, there were many discussions surrounding including the United States and Canada in the Rugby League World Cup. Each time, however, something has happened or someone decided not to proceed.³¹³ It is interesting that by having a few Americans show interest in the rugby league in the 1950s, more attention to considering America as a viable option for greater opportunities for the game but also a place in which methodologies and practices would be learned from by English, Australian and other counterparts. This will be further elaborated as the next topic in how Americanization played a further roll in international sport.

The next aspect of Americanization came about in promoting possession over position, meaning the value of possessing the ball is greater than the position of the ball itself on the field. This came about via the introduction of limited downs because a team could no longer perpetually have control over the ball. Robert Goodman aptly stated, “Slowly the U.S. football, pulling Canadian football with it, became a deliberate game with long periods of ball possession by one side, while the RFU game went the opposite way in that aspect.”³¹⁴ Therefore, a team must make the most out of the limited amount of time and/or opportunities it has to advance the ball and ultimately score, and this is where rugby league followed in suit.

As a point of comparison, Anglo/European sports traditionally focused on the attacking strategy of “defensive attrition” whereas the later American ones predominantly focused on, and still do define themselves based on, a rule of “use it or lose it ultimatum.”³¹⁵ Though the article cited was about the world’s two most popular bat sports, the overall theme still rings true in football codes, and there is a clear correlation on the direct impact American

³¹³ Willacy, *No Helmets Required*.

³¹⁴ Goodman, “Why the Uncontested Scrimmage?” p. 7

³¹⁵ Kassimir, “Cousins but Not Brothers.”

football has had on rugby league. In fact, Collins has discussed this in distinguishing soccer rules from the other handling football codes when writing about why rugby league has a six-tackles rule:

“[G]o back to the very origins of rugby, and one fundamental question of the game: what happens when the ball carrier is tackled? Unlike [post 1869] soccer, where the handball rule makes it impossible to use spoiling tactics by continually holding onto the ball, it is a problem [that] affects all handling codes of football.”³¹⁶

For baseball, the first form of this ultimatum came about in 1863, wherein the umpire had the power to call balls and strikes as a carrot-and-stick tool for both the batter and pitcher.

However, this was a paper tiger as it was rarely enforced, leading to prolonged games with wide pitches and no swinging. So in 1879, it was decided that a ball or strike had to be called, though the limited number of strikes did change depending on who was playing.^{317 318 319}

Thus, though three strikes and four balls were not made official until 1889, seven years after the three-down rule was brought to the gridiron, it had already been in use, and the most popular of the different ball/strike counts for at least four years before football had done so.³²⁰

Therefore, this appears to be a case of borrowing from best practices of the larger sport of baseball in introducing a three-down “use it or lose it ultimatum” on the side with possession of the ball. The lack of universal laws in baseball may appear strange, but this was the norm for many sports at the time, including football where in 1897 teams had to play by local rules unless they lived outside of New England or the Mid-Atlantic regions, and could opt for local pre-1896 laws.³²¹ At length, Szymanski explains the evolution of baseball without its

³¹⁶ Collins, “Why Six Tackles in League?”

³¹⁷ Morris, *A Game of Inches*, 2006.

³¹⁸ Morris, *A Game of Inches*, 2010.

³¹⁹ Bolton, “1887 Umpire Indicator with 5 Balls and 4 Strikes.”

³²⁰ Morris, *A Game of Inches*, 2010.

³²¹ Nelson, *The Anatomy of a Game*, 1995.

universal rules to its codified forms.³²² Because rugby football was introduced to the United States from Canada well after baseball started to be played, the parallel between the limited strikes and outs at baseball before we see the introduction of limited downs on the gridiron.

Though six tackles did not come into existence until 1972, six years after the adoption of the four-tackle rule versus unlimited tackles, American football had its own change in 1880 when the three-down system was brought into both American and Canadian football. (Later, this paper will address how this numbering system was a miscalculation, most likely stemming from baseball, and show the direct parallel in 1966/1972's limited tackles in rugby league.) For example, rugby union teaches the tactic of booting the ball away within one's own 20-meter mark whereas this is unheard of in rugby league. Yet as a result of the limited downs, the game becomes more conservative with mass plays, wherein players would interlock bodies and use individuals as battering rams to guarantee the attainment of at least five yards to earn another opportunity at three more downs. This change also killed the open kicking and lateral passing game despite numerous unsuccessful attempts by Camp and others to revive this aspect of strategy.

The allure of a hyper-conservative, possession-based offense in a game that promoted a win-at-all-costs mentality could not change the game to suit an audience. The monotony this style of play created is something Bill Fallowfield stated in regards to how competition encourages more conservative tactics.³²³ Over and over again, instead of moving laterally to maintain possession, the minimum risk ensured the forward progress of five yards or a retreat of 10. Thus, as the game changed, the rules had to be amended. Taking a page out of America's past, rugby league administrator Secretary William Fallowfield once described feeling that supporters and officials only cared about winning and not the entertainment value

³²² Szymanski and Zimbalist, *National Pastime*.

³²³ Collins, *Rugby League in Twentieth Century Britain*.

of the game, stating, “It is difficult for [rugby league supporters and officials] to look at the game objectively. Their interest is primarily in winning rather than being entertained.”³²⁴

This was not the first time the style of a defensive attrition-based attack by the ball-handling side had been an issue in the American football scene. Between 1879 and 1882, the number of games that used a keep-away tactic while possessing the ball was on the rise; a change in possession of the ball only occurred at halftime.³²⁵ The practice of defensive attrition has been called many names such as ‘keep-away’, ‘block games’³²⁶ on the American gridiron when there was no contest in scrimmage nor limited downs, and ‘spoiler tactics’ or, as the Yorkshire Post journalist Eric Sanger called it, a ‘creeping barrage’.³²⁷ Nelson said it best in summarizing how the ending of contest at the scrumage/scrimmage created this problem; this was the case from 1880 until the introduction of downs two years later. “Mandating possession to one team or another led to the infamous Yale-Princeton “block games” of 1881 and 1882, in which both teams were guilty of maintaining ball possession to gain a tie and achieve a championship.”³²⁸ Whether or not this style of tactics is enjoyable to those playing, it does not make for the best spectacle to watch. And unlike previous rule changes, such as those brought into practice in 1880, in this case there was a faster reaction to the issues of this new system given the introduction of a fairly rapid succession of rule changes in 1882, specifically with the requirement for five yards of gain or 10 yards of loss within the limits of three downs. The use-it-or-lose-it trend continued, such as the increase to four downs, getting rid of the 10-yard retreat and increasing the minimum yards gained to convert from five to 10 yards with the largest discussions coming in 1896 and 1906.

³²⁴ Collins. p. 111

³²⁵ Risan, *Rugby Renegade*. p. 74

³²⁶ Nelson, *The Anatomy of a Game*, 1995.

³²⁷ Collins, *Rugby League in Twentieth Century Britain*.

³²⁸ Nelson, *The Anatomy of a Game*, 1995. p.49

In a near-parallel action, in 1966 rugby league suffered from a similar style of play that was not interesting to the spectator, and which allowed for indefinite possession.³²⁹ The nearly indefinite possession issue was not limited to Australian rugby league, such as when St. George won 11 premierships in a row using a hard-hitting possession-at-all-cost strategy, but also showed up in the English homeland. According to the late NCAA American football coach and author, “the most obvious problem was that it gave the team in possession the option to completely monopolize possession, simply by the dummy half not passing or kicking. One of the most infamous examples of the ‘creeping barrage,’ as it became known was at the 1951 Championship semi-final. A twelve-man Workington Town were defending an 8-5 lead against Wigan when Town’s captain-coach Gus Risman ordered his players not to pass or kick the ball for the last fifteen minutes of the match: ‘They would be tackled, play-the-ball to the acting half-back, who would move forward two yards and then go down in a tackle. He would then play-the-ball to the acting-half back, who would move forward two yards and then go down in a tackle. And so it went on ad infinitum.’”³³⁰

And yet this was an issue American football too dealt with, but it was fixed 86 years earlier in 1880. Walter Camp was still a player at this point, but he was credited with ending this effective but viewer-unfriendly tactic of playing keep-away since, from his perspective, the game was more than just about playing, it was about engaging the community in the entertaining exhibition of gentlemen in the heat of battle, according to what he and Deland professed in 1891.³³¹

Though this style of play had been used in rugby league for some time, it only came to a breaking point as a result of greater exposure to American football and American values. In

³²⁹ {Citation}

³³⁰ Risman, *Rugby Renegade*. p. 74

³³¹ Camp and Deland, *American Football*.

Gavin Willacy's *No Helmets Required*, the story of the "American Rugby League Allstars" competing in 1953 and onward in Australia and France was told, including how those exotic Yanks showed up to play the Australian game from the northeastern side of the Barassi Line. However, while this did expose the people of these two countries to American Hollywood culture, being that many of the players were from or at least went to universities such as the University of Southern California in Los Angeles, it also gave administrators of the game the idea of putting on an exhibition match stateside. However, in 1955 the Duke of Edinburgh, while presenting the trophy at the Challenge Cup Final to Secretary Bill Fallowfield, said that he did not like the play-the-ball due to the monotony of play that it led to.

In short, rugby league has all the disadvantages of American football without the benefits.³³² Rugby league's defense is not designed to allow for the same pressure by the team without the ball as to pressure the ball-handling side, which occurred in American football both during this era and today. However, unlike the gridiron, the league never required a team to relinquish the ball to the opposition, and this made for what he viewed as a monotonous and repetitively dull sport. Unfortunately, he was not the only one who thought so and, for better or worse, by the time he made this statement it was too late as in 1954, the previous year, Los Angeles played home to the matchup between Australia and New Zealand, where attendance was abysmal. Whether this is proof that the game did not pique the interest of Americans because of the issues the Duke would later raise, or if the marketing itself was just bad, the reviews by reporters regarding the way in which rugby league is played showed a heavy displeasure for the events from prior to kick-off and on up through to the last whistle.

333

³³² Collins, *Rugby League in Twentieth Century Britain*. p. 109

³³³ Willacy, *No Helmets Required*.

Unfortunately, what happened in the City of Angels did not simply stay there. Author “T.G.N.” of the Queensland Times in Ipswich spoke with player Denis Flannery about the less-than-flattering reality of the game. “Australian rugby league side, Denis Flannery is convinced the wrong time was selected to try to introduce the game to America. ‘We went there right in the middle of the gridiron season, and those Yanks are simply mad on gridiron,’ said Denis. He thought a better time would be the lull between baseball and gridiron.”³³⁴ Unfortunately, these are the hurdles that are being discussed today, over 60 years later.

To make things worse, Flannery said the highlight was simply the visit to the States and getting to see the houses of movie stars, nothing to do with rugby league.

Yet despite Australia and New Zealand being largely ignored by America, England decided to not get involved in this attempt at penetrating the U.S. market, and this was largely due to its secretary being in command of calling the shots.

William “Bill” Fallowfield is one of rugby league’s more controversial administrators. It is well documented that he was a rugby union supporter who happened to both rise to and stay in a position of power for rugby league in England. In the RFL minutes, as in his independent writing, he railed against what he saw as a failure of 1906 in introducing the ill-conceived requirement of a ball carrier to be made to stand upright and heel the ball backwards after a tackle.^{335 336} Even after the introduction of the misunderstood four-tackle rule and its successor, the six-tackle rule, Fallowfield emphatically aimed to undermine the play-the-ball in his article titled “Play the Ball.” “If the legislator who, in 1906, first suggested that the tackled player should be made to rise to his feet with the ball in his hands

³³⁴ T.G.N., “Sportographs.”

³³⁵ “Northern Union / Rugby Football League (RFL) Minutes and Letters.”

³³⁶ *John Player Rugby League Yearbook*.

could have foreseen the subsequent controversies and discussions that would result from his action, he might have had second thoughts. But I am sure that he never envisaged that the further development of his idea would lead to teams being able to monopolize possession for minutes on end by playing the ball consecutively 50 or 60 times.”³³⁷

Fallowfield was not very well liked for his overt love of Union and contempt for what is seen as one of the distinct divergences between the codes that uniquely define league; he is also remembered by contemporary historians as a man who culled and edited minutes and records of the Rugby Football League.³³⁸

Yet despite the negative reputation, deserved or otherwise, his success at saving the sport by Americanizing it via the introduction of limited tackles is no less than outstanding. “Bill Fallowfield, the prickly secretary of the RFL, had campaigned to change the play-the-ball rule since the early 1950s, but the issue was finally settled by a decision to borrow from American football. At the 1966 meeting of the Rugby League International Board, Fallowfield suggested limiting possession to four tackles per team. The proposal was passed unanimously and within weeks the new rule was being hailed as a turning point for the game. The rule was extended to six tackles in 1972 in order to allow greater opportunities for attack, and gradually other rules were streamlined to encourage faster, more open play.”³³⁹ Originally, Fallowfield had wanted to have the game return to its earlier iteration or create new rules closer to the ruck of rugby union; this was met with resounding rejection in England and never even became part of the conversation in Australia as Collins further elaborates. Thus, like the Northern Union caught between the professionalism of the

³³⁷ Fallowfield, “Compilation of Documents from Tony Collins on William Fallowfield’s Thoughts on the Play the Ball Rule/ Play-the-Ball Law.”

³³⁸ Collins, Conversation with Tony Collins - 60 Street Lane, Leeds, LS8 2DQ, England.

³³⁹ Collins, *The Oval World*.

Association game and the amateurism of Union, he found a compromise by looking toward the USA to craft such a compromise. However, he was not the first to attempt to revert back to rugby union's releasing of the ball or emulating the American game. In 1934 and 1939, Wigan led the charge to emulate Union; because Union's interpretations of the ruck had changed so much, it is hard to say that this would have been considered "reverting" to the old ways as much as adopting the rival code's current interpretations of the laws whose wording had largely remained consistent.

Hull had suggested that the ball be passed from the tackled player once he stood up, and that he would do so between his legs, passing to the halfback. Hull's opinion seems to be heavily if not directly influenced by knowledge of, or at least exposure to, American football since this is exactly what happens in the sport, with the exception being that the man tasked with snapping the American football is a designated position known as the center, and it is he who is entirely responsible for this task regardless of who is tackled. Recounting this in his article, Fallowfield made his feelings known about the latter's attempt in stating how "they should have studied what happened to American rugby in the 1880s when such undisputed possession was allowed."³⁴⁰ The inference here is that, by not contesting the ball, American football became monotonous, and with the side in possession of the ball never having to relinquish possession. It only occurred largely when a mistake was made. However, this is perhaps an unusual thing for Fallowfield to say since, even before his tenure, rugby league too suffered from this same problem, which was dubbed the 'creeping barrage.'³⁴¹

Additionally, the sentiments of Fallowfield, Hull and Wigan are all quite interesting since it was the Rugby Football Union that adopted the releasing of the ball in 1878, creating created

³⁴⁰ Fallowfield, "Compilation of Documents from Tony Collins on William Fallowfield's Thoughts on the Play the Ball Rule/ Play-the-Ball Law."

³⁴¹ Collins, *Rugby League in Twentieth Century Britain*.

a different type of contest for the ball compared to the original pre-1878 mini-scrum.³⁴² Prior to this, it is understood that a scrum would happen after each tackle to the ground, and this new 1906 version, a mini-scrum (play-the-ball), was a way to bring back the old ways, creating a way to continue play and speed up the game.³⁴³ While this similarity is striking, there is no conclusive evidence that Hull was directly influenced by American football. The comparison is made here to highlight a compelling overlap in rule design, but the inference remains interpretive rather than evidentiary.

Compounding the evidence that play-the-ball was not only always English but in fact the original method are quotes from articles in the June 18, and September 3, 1906, editions of the *Athletic News*. It is here that playing of the introduction of the ball is referred to as a return to the old ways and, therefore, was more of a reintroduction and return to the game's roots.³⁴⁴ This information was also recorded in *The Yorkshire Post*, when it alluded to this return to pre-1876 rugby rules, referring to "Proposals in the name of the Bradford Club, provided in effect for a return to the 'play-the-ball' rule."³⁴⁵ Showing this was not just an English phenomenon and something clearly understood in the colonies, *The Truth* (New Zealand) stated that "to make the game brighter from a spectacular view-point, the Northern Union has this season reduced the number of players to thirteen on each side and the most excellent rule, that was obliterated from the earlier laws of the Union has again been introduced, 'That a player, when collared, must put the ball into play.'"³⁴⁶

³⁴² "Rugby Football Union - Catalogue Description - AGM and Subcommittee Minutes, Accounts and Corresp."

³⁴³ Collins, "Why Six Tackles in League?"

³⁴⁴ "Sporting News. | Yorkshire Post and Leeds Intelligencer | Wednesday 13 June 1906 | British Newspaper Archive."

³⁴⁵ "Sporting News. | Yorkshire Post and Leeds Intelligencer | Wednesday 13 June 1906 | British Newspaper Archive."

³⁴⁶ "Papers Past | NEW ZEALAND RUGBY UNION. (NZ Truth, 1909-05-08)."

Thus, there is a clear understanding this was the original way and that rugby union had abandoned the original rules in favor of a system of releasing the ball in the tackle.

Americanization of the Codes

It is important to consider the possibility that America played a part in the resurfacing of the old code given the amount of sport-specific trans-Atlantic communication even from magazines and other popular media like *The Athletic*. Canada and the United States were still using, albeit a modified version, of the pre-1878 rules regarding the play-the-ball. Collins states that the play-the-ball “was seen by everyone in the game as a qualitative improvement over union’s method of restarting play, and the speed it allowed the ball to be passed to the backs was one of the reasons why French journalists in the 1930s nicknamed league ‘lightning rugby.’”³⁴⁷ Whether or not some people within English rugby league pulled directly from what the United States and Canada were now doing, or whether these individuals were just reintroducing an old way of beginning play again, is difficult to say. Certainly, the latter would be easier to prove but, looking at the aforementioned amount of sports communication that was occurring at the time, in addition to what was happening in the football codes in 1879 and onward in Canada and the United States, it should at least be noted as these rule changes do have a strong connection to the way in which play is resumed after the tackle is completed.

However, there is still reason to believe that the American version, and thus what the rugby league version became, is uniquely American since 1) 1879 (University of Michigan vs. University of Toronto) and 1880’s official rule changes in the American Intercollegiate Football Association introduced a non-contested possession/scrum in the American game, according to Goodman; and 2) though rugby league did play-the-ball as a mini-scrum to start,

³⁴⁷ Collins, “Why Six Tackles in League?”

it is clear that it too departed from this, also in favor of the uncontested American method. In so doing, and in light of the open conversations and dialogues between the two countries at the time, it seems that the U.S.'s adoption and popularizing of the play-the-ball starting in 1879-1880 could have produced enough publicity for rugby league to go back and resurrect their version of the mini-scrum.

So despite this potential oversight, and history remembering him unfavorably, Fallowfield was neither ignorant nor was he the first and/or only influential person of any football code to misinterpret the history of one's own code.³⁴⁸ Bazeley goes as far to state how "history takes a somewhat dim view of Fallowfield's 29-year spell at the helm of the RFL."³⁴⁹ Similarly, in spite of the fact that history shows no correlation to the use of one's boot in advancing the ball as the origin of the name 'football,' one of American football's earliest supercoaches, Glenn "Pop" Warner, wrote how the forward pass killed the 'foot' in football. "It had been a basic theory in the sport that football was a game in which the ball was advanced by either rushing or kicking, and basketball tactics had no part in the game."³⁵⁰ In light of this, Fallowfield's written legacy shows his depth of contemporary and historical knowledge in both games of rugby and various football codes, along with a knowledge of the gridiron across the Atlantic. Fallowfield had been to North America but also, by chance, was living at a time when programs like *Wide World of Sport* began to show highlight American football matches in England.

Additionally, he clearly had an understanding of the need for a sport to be entertaining to an audience; whether a union-style ruck is more exciting compared to introducing limited tackles is a matter of opinion, but he did keep to the goal of fixing the shortcomings of near-

³⁴⁸ Bazeley, "The Way We Were."

³⁴⁹ Bazeley.

³⁵⁰ Warner, *A Course in Football for Players and Coaches*. p. 62

absolute possession in rugby league during his reign of the 1950s-1970s, just as Camp had during the 1880s and early 1900s. Yet sadly, even after saving the sport from its own 60-year slide that began with the Northern Union's General meeting, which reintroduced the play-the-ball in 1906 with unlimited tackles,³⁵¹ and lasting until 1966, his article "Play the Ball" is an accurate reflection of who he was: a man whose last efforts were going to be dedicated toward ridding the sport of something he absolutely detested.³⁵² Nevertheless, he brought in limited tackles to revitalize and Americanize the sport further so as to make it better suited for the viewing audience.

The only problem was that his four-tackle rule, despite being directly influenced by the American four-downs rule, was mathematically miscalculated despite having the same number.³⁵³ It is apparent that the game was in need of reform, with games such as the previously mentioned Workington Town incident and the 11 years of St. George dominance, but the initial reaction to the four-tackle rule was, logically, that the game became frantic, rushed, and with diminished strategy. Yet, even with the noted improvement to the game from an Australian perspective,³⁵⁴ England still wanted to retract the law. In 1969, New Zealand's rugby league leaders openly protested England's desire to go back to unlimited tackles.³⁵⁵ However, tradition of the old guard was not the only reason that the four-tackle rule required revising: Four downs does not equal four tackles. In American football, four downs means that three of the four snaps will be used to advance the ball at least 10 yards. Assuming that the minimum yardage is not accrued, more likely than not, the ball will be kicked away on the final attempt. On the other hand, four tackles in rugby league means that

³⁵¹ "RFL Minutes 1966 - Date."

³⁵² Bill Fallowfield article titled "Play the Ball" John Player rugby league Year Book 1974-1975

³⁵³ "RFL Minutes 1966 - Date."

³⁵⁴ "Pleasing People."

³⁵⁵ "NZ Says Keep 4-Tackle Rule."

the first occurs without a play-the-ball, and the fourth will be kicked leaving, only the second and third being attempts at advancing the ball. This reduced number of tackles when compared to the American system is the direct crux of the situation, and why the English, along with others, viewed the new system to be frantic and less strategic. The number was only superficially the same when, in practice, the play of game was not. Fortunately, it only took six years to change the laws of the game to be six tackles, thereby giving three full attempts at advancing the ball from what would be “scrimmage” in the American game.

However, this had already occurred during American football’s infancy. The game began with just three downs and, though no articles have yet addressed this theory, it appears this was done for the exact same reason, just 86 years previously. It is well known that the American and Canadian games were divided into halves of 35 minutes prior to the current standard of four quarters. However, less noted is the fact that they were referred to as ‘innings’ just as in baseball and cricket. In North America, baseball was and still is the more popular of the two bat codes and, by the 1800s, it had already gone professional. The money from professionalization, which led to star power of the players complementing the country’s increasing population, brought into the game more money and, unlike in 1800s England, more influence. Because both the US and Canada co-created the gridiron game, whether it was the University of Michigan vs. University of Toronto in 1879 or the American Intercollegiate Football Association official rule change of 1880, there had to be a common thread to lace the two codes together. It is also fair to note that Canada had openly adopted the rugby game, though they had also changed it in their own ways to the extent that Canadian rugby began to become different from English rugby nearly from the point of inception. Though there are different accounts, one of the earliest is from Gordon Currie’s

1968 book *100 Years of Canadian Football*.³⁵⁶ Though this book is generally cited by many Canadian historians researching their game, it lacks proper citation, which may be not unusual for its time but remains problematic. The major evident mistakes made, however, are mostly regarding non-Canadian football codes such as the William Webb Ellis myth. Much of the book can be considered good research when seeking evidence via secondary and tertiary sources. Therefore, it is fair to use as a guide, however, works by Robert Goodman from the 1980s are better substantiated and he researched specifically around the 1870s and 1880s era.³⁵⁷ The decade around 1879 was at this time that the game of baseball had already formalized the three strikes law. It seems clearly apparent that, with the halves being called innings, that when 1882 rolled along with the problems of the boring infinite possession/block tactics, that they again looked to a familiar game for ideas.

The only issue is that three strikes does not equal three downs, as was the case in 1966 for rugby league. The difference is subtle on the page but impactful on the field. Three strikes equal three full attempts at striking the baseball, whereas three downs only provide two attempts at acquiring the minimum yardage. Though the rules only required five yards to be gained, this was at a time without a forward pass and the growing popularity of “mass formation plays,” like the aforementioned flying wedge, where entire teams would essentially all slam into each other. There was also no requirement for seven men to be on the line, nor was there a prohibition on forward movement in the backfield. Therefore, the game became extremely dangerous but, unlike rugby league, which had changed the problem in only six years, the American gridiron became progressively and rapidly more dangerous. It was at 1896’s general meeting where methods such as a “jump ball/ball up” similar to

³⁵⁶ Currie, *100 Years of Canadian Football*.

³⁵⁷ Goodman, “Why the Uncontested Scrimmage?”

basketball/AFL³⁵⁸ were suggested to replace scrimmage, and to increase the number of downs to four to alleviate the brutality. However, these attempts failed, as did early attempts to create the forward pass the way it is known today. Eighteen men died playing collegiate football in 1906 and, thanks to presidential intervention, the fourth down was added to the American game, whereas the Canadians used larger fields for more space to solve the same problem.³⁵⁹ Still the correlation is uncanny between rugby league and American Football in as much as they looked to other prolific sports of their time to adjust their game away from unlimited tackles, though both failed to accurately calculate the true impact of the number limits until after being put into practice.

There is a consistent pattern that started in 1882, when American and Canadian football adopted the three-downs rule, most likely adapted from three strikes in baseball, but only did so in number but not in application for the purpose of three attempts to advance the ball. The trend of basing limited tackles/strikes and the like in other games, and then adjusting their numbers, continues in rugby league's efforts. In 1966, four tackles were brought into rugby league, directly influenced by the four downs in American Football.³⁶⁰ As stated, three downs represent only *two* attempts to advance the ball from a set piece/play-the-ball, and in 1906, the addition of one down created the opportunity for three full attempts, similar to baseball. With rugby league, the four tackles only provided two opportunities to advance the ball from a play-the-ball (PTB) since there is not PTB prior to the first tackle, and the fourth tackle is predominantly used to punt-kick the ball away.

By increasing the number to six in 1972, rugby league created a system parallel to the American game in the number of attempts to advance from the mini-scrimmage of PTB,

³⁵⁸ "Yale Archives Camp (Walter) Papers."

³⁵⁹ {Citation}

³⁶⁰ Collins, "Why Six Tackles in League?"

which is equivalent to the line of scrimmage. In short, six tackles means that 1. The first tackle has no play-the-ball (similar to the kicking team's fourth down in American football); 2. Tackles two, three, and four are for the purpose of advancing the ball to score (similar to downs one through three on the American gridiron); and 3. Fifth tackle goes to most frequently booting the ball away (equivalent to punting on fourth down). There is clearly a repeated pattern, where numbers for the purpose of limiting possession/scoring opportunities have been adopted from other codes and were done so only in numerical value but not in application; the conclusion each time quite clearly shows that the end result is in the form of three full attempts at advancement, whether three strikes, three downs to advance a minimum number of yards, or even three play-the-balls at which to advance from.

This is likely the one time rugby league made the correction faster than its American cousin, with the former taking six years versus the latter's two decades. The change may represent an innate pattern in the balance between the desire for the use-it-or-lose-it ultimatum in sport but not to the extent that it impedes the flow and strategy required. For some reason, three calculated chances from a "set play" is desirable across multiple football and bat sports throughout over a century in multiple countries and hemispheres. It is reasonable to see the zero tackle as a further extension of this phenomenon as it gives a free/extra play equivalent to when the offending side is off sides and/or commits a handling error. This form of infraction and/or penalty would be the equivalent to an offside/neutral zone infraction on the gridiron, wherein the offense is allowed to play through, with no repercussions of a turnover or lost possession since the down will be repeated should the play not succeed.

The number of tackles and the numbers of attempts are different. In cricket, the reasoning for changing from four balls in and over to five and later six is entirely different.

This becomes clear when reviewing Gerald Brodribb's *Next Man In: A Survey of Cricket Laws and Customs* from 1952. He clearly explains how the original number of balls in an over had been four since 1744, and remained that way until it was increased to five in 1889, for the peculiar reason of "being more convenient as a sub-multiple of ten" (going metric) and finally to six in 1900.³⁶¹ Though the trend for increased balls in an over continued in Australia, New Zealand, South Africa, and a single season in England, it is clear that there is no causal relation, and does not connect to the rugby league learning from American gridiron, and the latter likely learning from baseball. Looking back from today's point of view, it is clear that, as difficult and unlikely as it would have been to do so, rugby league technically could have avoided the whole four-tackle miscalculation if they had looked to and learned from the mistakes of American gridiron's past and the tradition maintained from inception to present day in Canadian Football.

Looking to another sport or code, as described, is not the only way how different sports have looked towards one another yet not fully understood the best application in which to adapt an, at least seemingly, desirable tactic into one's own sport code. This is not the first-time correlations are observed between sports that may have causations in which there is not access to historical evidence that would prove that there is more than a coincidence. Case in point, both baseball and rounders are usually associated with one another due to, among other factors, their field shape and 90-degree angle of play from where the batter stands. Even with all of the texts reviewed, there is little if any research exploring any relationship to the already established history of cricket wherein the ball would, by custom but not rules, never hit to the leg side because it was considered un-gentlemanly at least until the 1880s.³⁶² Combined with the infrequency of hitting backwards, this leaves a 90-degree area of play on

³⁶¹ Brodribb, *Next Man In*.

³⁶² Sacks, *Cricket, Kirikiti and Imperialism in Samoa, 1879–1939*.

the oval, in which the ball was considered to be acceptable to travel.

The reasons behind American football and rugby league's respective play-the-balls are related but serve very different purposes when it comes to understanding how both are connected yet draw from different perspectives. Walter Camp describes the line of scrimmage and subsequent play-the-ball as an opportunity to promote strategy and "brilliance" of play.³⁶³ The fact that there are no more than 40 seconds allotted to the attacking side to allow for this methodical strategy is also crucial to the goal Camp aimed to achieve. It is much more than being a method of restarting play, and an actively strategizing offense as opposed to reactive makes the American and Canadian gridirons so uniquely different from other codes. On the other hand, rugby league's reintroduction of the play-the-ball in 1906 is more a modified return to the pre-1878 rules that required the scrum to occur after each tackle.

Difference in the Scrum

Though today's scrum is very predictable in both union and league, back then they were highly unpredictable and often contested. The rugby league method comes from a place of reaction, even if the placing of the ball is by the tackled player. This unpredictability is part of the rugby codes, which have been minimized to date, even with union maintaining the contest and league abandoning it via a gentleman's agreement in the 1990s.³⁶⁴ It should also be noted that the NRL's Graham Annesley has provided a different interpretation, stating that the contest in the scrum was reduced for practical reasons given that the average position time is now only 45 seconds for one set of six tackles.³⁶⁵ It is also important to note that the

³⁶³ Camp and Deland, *American Football*. p. 10

³⁶⁴ Ribot de Bresac, "John Ribot de Bresac: Changes and Policy Leading up to, during, and as Fallout to/from the Super League / Australian Rugby League Wars.," January 24, 2016.

³⁶⁵ Kassimir, "Chat and Business Interview with Graham Annesley."

historical scrum discussed here is quite different to what is seen today. The former method had the ball merely placed between the two sides, which would then come together to compete over the ball. There was simply no feed by the attacking team until the late 1870s.

Not having a player from the ball-handling side feeding the ball not only contributed to greater unpredictability over who would next possess the ball, it also meant that, once the ball was in play, the side in possession was much more heavily encouraged to keep passing and kicking, with the aim of preventing tackles from occurring as this caused a greater risk in losing position, even at a time when field position was more prized over ball possession.

Despite all of this, in rugby league from 1906 onward, there was no introduction of this greater elaborate stratagem from either of the gridiron games as the ball in league needs to be played nearly immediately upon the ball carrier rising to their feet. There was also no additional aim to draw the defense offside as this would be impractical due to changes in retreating from over the ball from zero, to three, and then five yards eventually to eight and finally ten meters back as a result of both an increased distance of retreat and change from imperial to metric measurements in the 1970s.³⁶⁶ The process of adding and subtracting the number of yards/meters to be retreated by the defense happened many times in both Australian and English rugby league. It began in 1951 and, after numerous later adjustments, has remained as the game we know now since halfway through the 1993 season, when eight-ish meters finally became and stayed at ten despite the 1992 season only requiring five.^{367 368} The reason for eight-ish meters is because technically the law still stated it was only to be five but, according the NRL historian Terry Williams, at the time NRL referee and now coordinator Mick Stone stated, “they had been playing a ‘big’ 5 metres in the years leading

³⁶⁶ NRL, “Centenary of Rugby League | History.”

³⁶⁷ NRL.

³⁶⁸ Stevenson, “Attack Falls for Dummy.”

up to it which was in effect about 8 metres. For the sake of officials and fans the admin decided that it'd be easier to measure as 10 metres given the grid markings on the field.”³⁶⁹ In essence, this is very telling of one of the main differences in ideology between rugby league and the American gridiron. The latter traditional has made law changes and interpretations very deliberately and only after the fact, whereas the former's culture permits an element of fluidity and, in certain ways, cultural experimentation. With that said, practically speaking, it is very difficult, if not impossible, to enforce this rule to the letter when also needing to watch the play-the-ball. It has become such an issue that former NRL CEO, and at the time Head of Football, Todd Greenberg was quoted telling the referees that they needed to more strictly enforce the offside rule.³⁷⁰

Yet influence and opinions ebb and flow. Though there does not seem to be an influence from rugby league, the American football code seems to be making rule decisions similar to its Australian/English cousin. The budding A7FL, a version of the American gridiron with no pads or helmets and only seven per side, has taken a step toward the rugby league method in as far as they do not have a traditional snap count aimed at drawing the defense offside but, instead, simply signal to both sides that play is beginning again. “All QB cadences must consist of 3 sounds and the offense can move on any of the 3 sounds. For example, if your cadence is Down, Set, Go you can go on either Down, Set, or go but there is no going on 2 or trying to draw the defense offside.”³⁷¹

Additionally, it is clear that this is not the only way in which this gridiron code has been influenced by the rugby codes. Unlike in the American 11s and Canadian 12s, where shoulder charges and other hits would be legal, the A7FL rule-makers decided “every tackle

³⁶⁹ Williams, “1993 Season Eight - Ten Meter Retreat,” August 15, 2018.

³⁷⁰ Carayannis, “State of Origin.”

³⁷¹ “Rules - A7FL,” 7.

must be made by attempting to wrap up. You are not permitted to throw a shoulder, head, or elbow to try and make a tackle. “YOU MUST WRAP UP WHEN TACKLING!”³⁷² More surprising is the acute awareness of the differences between rugby league and rugby union, all the way down to the differences in permitted padding/equipment. “Soft padded head gear/skull cap must be either black, white, or team color and be form fitting. Soft padded head gear is permitted. Rugby league type head gear that is heavily padded is not permitted.”³⁷³ Though I have saved a copy of the webpage as it was written, these rules are no longer posted, most likely due to a new contract with a company to provide specific headgear to players.

The A7FL is not the first time that American football teams or organizations have tried to learn from the rugby codes. In 2006 New England Patriots Coach Bill Belichick had veteran quarterback Doug Flutie attempt the first dropkick/drop goal since 1941, in which he succeeded in adding on the extra point.³⁷⁴ Some saw this as a publicity stunt and swan song for the soon-to-retire QB, but this was just the beginning. In December 2015 Belichick had special teams and Olympic USA Rugby 7s player Nate Ebner use the dropkick to restart play in an attempt to see how the vestigial play could benefit his team; unfortunately, it didn’t, and nobody has attempted the dropkick in any situation since ³⁷⁵.

Belichick is not the only coach who went looking to “rugby” for influence (the quotation marks are to emphasize that most Americans don’t even know there are two rugby codes). In preparation for the 2017 Super Bowl against the Patriots, Atlanta Falcons Head Coach Dan Quinn also publicly discussed his research into the rugby codes, though mainly

³⁷² “Rules - A7FL.”

³⁷³ “Rules.”

³⁷⁴ “Patriots’ Flutie Converts First Drop Kick since 1941.”

³⁷⁵ Sherman, “The Pats Tried a Drop Kick Trick Play.”

union. Quinn was the offensive coordinator for the Seattle Seahawks under Head Coach and defensive guru Pete Carroll when they won the Super Bowl against the Denver Broncos in 2014 after implementing what each described as rugby-style tackling.³⁷⁶ “I’ve studied rugby from tackling, and it’s been a driving influence on our leverage tackling, using our shoulder and keeping our head out.” Thus, it can be argued that the A7FL is simply an aberration from the inward-looking cultural hegemony that has been associated with America, and that American sports have remained insular because they are small enough to be able to make these decisions from the start as opposed to the burden of making changes to what is seen as established.

However, this being a one-off, small-scale phenomenon is clearly not the case, as even major Super Bowl-contending and winning sides, coaches, and players are also part of this greater trend. These events lend greater insight into the full circle that is coming about in an internationalized sporting world.

American Looks to Other Codes

Yet the perception of an inward-looking America that never looked at other sporting codes is simply false. Coaches were brought over from England to train American football players, yes, but there is much more. It is interesting to note that Walter Camp had a copy of Australia’s VFL constitution from 1906.³⁷⁷ ³⁷⁸ What is even stranger is that the rugby-style scrum, still known as the scrimmage, had been abandoned for 40 years in Australian Rules after the 1866 changing of its laws.³⁷⁹ ³⁸⁰ Yet despite this, there was still an interest in the

³⁷⁶ Casey, “Falcons Head Coach Explains Intriguing Rugby Influence On His Super Bowl Team.”

³⁷⁷ “Yale Archives Camp (Walter) Papers.”

³⁷⁸ VFL, ‘Minutes’, 1903-1908’.

³⁷⁹ Hickie, *They Ran with the Ball*.

³⁸⁰ Ward, “The Real Founders of Aussie Rules?”

outside world, not just limited to Camp and the gridiron, but from all codes. As documented in the February 1, 1907, minutes of the Victorian Football League (VFL), a letter was received written on behalf of the then-president of the United States, Theodore Roosevelt.³⁸¹ In addition, the minutes indicate that this letter was also sent on behalf of representatives of many universities, including Yale.³⁸² Though the letter is no longer in existence, the fact that Yale is listed on Camp's copy provides a strong correlative. It seems that the 18 deaths the previous year on the gridiron were being taken so seriously that Roosevelt himself got involved.

Less commonly known is that Walter Camp, President Roosevelt, and the rest of those listed in the aforementioned letter to the VFL were actively reaching out internationally and looking to other codes for inspiration and ideas. In a 1911 article for *Outing Magazine*, Camp had some choice words about rugby league due to its subsidized payments, but that is not to say, however, that he did not respect the game and the caliber of athlete and trainers that came from it. "Northern Union teams lost time is paid for, which although it does not rate the players as regular professionals, detracts from their amateur standing... The men who form these teams are of excellent physique, strong and powerful, putting up a hard, vigorous game with tackling that is earnest enough to be severe."³⁸³ Despite knowledge about the English oval ball sports, and the fact that English rugby code coaches were brought to the States to train the American athletes, there is no record of these men directly reaching out to either sport's administration, as they did with the VFL.

As will be further discussed in the next chapter, it is important to note that Australian Rules was not an entirely unknown code, as Pat O'Dea, a footballer from the Melbourne Football Club, made the jump to playing American football at Wisconsin just 12 years earlier,

³⁸¹ VFL, 'Minutes', 1903-1908.

³⁸² Ibid..

³⁸³ Camp, "Rugby Football In America."

in 1895. Rather than being a footnote, O'Dea is remembered in the College Football Hall of Fame for introducing/popularizing the drop goal as a faster tactical advantage over the placekick. It was at this time that rugby league began breaking off from rugby union, but it would be some time before play-the-ball was brought back. This statement is controversial in and of itself only when one realizes that, as recorded by David Nelson, the kicking trend was the exact opposite with respect to local kickers Alex Moffat and Clarence Herschberger.³⁸⁴ However, upon closer review, it is clear that there is no conflict since different parts of the country such as the Middle Atlantic, Southern Collegiate, South Atlantic, and Western New York all had different rules from those in the Ivy League schools of New England.^{385 386} Therefore, it is both possible and plausible that this lack of rules consistency among different areas of the country accounted for different tactics being in vogue at the same time.

Unlike American football, which openly looked toward other codes for the 1906 season, when most of the pivotal changes occurred, there is no such mention of the Rugby Football League in England looking to make such changes. Yet in the years leading up to 1906, there had been many changes and increased complications involving these early scrums, and each code attempted to solve the problem differently. Where Victorian Rules essentially abandoned the scrum (1866), and both the American and Canadian gridiron changed the terms to make it not contested, during the 1879 University of Michigan vs. University of Toronto³⁸⁷ or 1880 Harvard vs. McGill, pre-split/pre-1895/unified rugby decided to A) reduce its frequency (no longer after every tackle); B) better define it (adding someone to feed the ball in as opposed to leaving it between the two sides); and C) adjust it in contest. For the next hundred years, aside from lacking flankers, the rugby league and rugby union

³⁸⁴ Nelson, *The Anatomy of a Game*, 1995. p. 78

³⁸⁵ Nelson.

³⁸⁶ "University of Delaware: DAVID M. NELSON PAPERS."

³⁸⁷ Goodman, "Why the Uncontested Scrimmage?"

scrums ran largely in parallel.

Yet in the 1990s, these matters changed when contest of the ball in the scrum was eliminated from rugby league. In an odd turn of events, it was not a change in the laws of the game but rather a proverbial gentleman's handshake between teams not to contest it. In certain ways, this was the final nail in the Americanizing coffin by ending contest in the scrum, as had already been done by heeling the ball in the play-the-ball, but the result this time was quite different. Unlike the physical bodies of players becoming more specialized, as resulted in the American and Canadian codes, rugby league players' bodies homogenized. In many ways, forwards, are merely bigger players than the backs, and this is a stark difference not only between league and the gridiron but also with rugby union. Of course, this is a result of there being no free substitution and no separate offensive and defensive players, as in the U.S. code. A similar situation is also true in union as well since there is only one ball-carrier in the ruck; additionally, there is no lineout. Though not contesting that scrum/scrimmage is an Americanization of the game, reducing the specialization of players is not. The scrum is now a part of the game only useful in spreading backs across more ground, but it no longer requires the physical specificity and strength of union or the line of scrimmage, but this is not something new.

It can be said that the game of rugby league came full circle in the 1990s with the uncontested scrums of North America as they had in 1879-1880. That said, there is very little literature on the subject matter despite being so pivotal to the game. Graham Annesley even stated how the contest aspect of the scrum had outlived its purpose at least since 1966, when limited tackles (as in American and Canadian football) were introduced because the average time of ball possession is roughly 42 seconds.³⁸⁸ For example, the results of doing away with the contest were not limited to there being a clear process of possession, as seen in America

³⁸⁸ Kassimir, 'Chat and Business Interview with Graham Annesley'.

and Canada 110 years earlier, it also affected the physiques of the players. Unlike the result in the gridiron codes, wherein a player's physique became more clearly defined to play a position as a result of ending the contest, doing so in rugby league diminished these differences and created more parity in size. This series of changes is largely due to the fact that, after the snap/play-the-ball, gridiron players have other responsibilities such as blocking.

Something similar may be said about union because of the forwards' requirement to protect the ball in the ruck and participate in lineouts. Yet the result in rugby league was the opposite because there is no blocking, lineout or supporting players in the ruck. Therefore, the nature of the forward pack and the bodies changed exponentially; the only difference now was that the pack, with the exception to the hooker, comprised larger players than the backs.

John Ribot de Bresac touched on these matters as to why there is so little research on this matter.³⁸⁹ The main reason stated is likely because the decision happened between coaches behind closed doors. Unlike the other changes, such as the reintroduction of the play-the-ball and the limited tackles, which happened in the administrations and have records and minutes of the processes, this was not the case this time.

Ribot continued to say that the changes were desired by coaches had mostly to do with interchange and player safety. Essentially, the coaches were juggling the number of interchanges with safe contest in the ruck. Unfortunately, as mentioned there are no records, only the visual evolution discerned by viewing footage of games of that era. Nonetheless, by ending the contest in the scrum, rugby league took the penultimate step toward the complete Americanization in terms of the way the game is played. This is not to suggest the change was modeled directly on American football, but the outcome, a fixed restart with guaranteed possession and no contest, clearly mirrors the scrimmage format that had existed in the

³⁸⁹ Ribot de Bresac, "John Ribot de Bresac: Changes and Policy Leading up to, during, and as Fallout to/from the Super League / Australian Rugby League Wars.," January 24, 2016.

American and Canadian games since the late nineteenth century.

It has to be noted that, here in Australia, there had already been many attempts to eliminate the scrum entirely. In a meeting conducted between the administrators of the NSW rugby league and Australian Football in 1914, one of the goals was to merge the two codes, and an agreed-upon point was the elimination of the scrum.³⁹⁰ This would have meant a hybrid code that would become the new Australian-wide game. NSW rugby league official John Quinlan stated to the AFL's Charles Brownlow that "the way seems open, if we abolish the scrum. You allow the tackle and abolish hand passing forward. It will be also necessary to allow some little playing space behind goal posts, say ten yards."³⁹¹ Unlike the tradition-steeped English culture that likely would have frowned greatly upon such a decision, Australia was willing to entertain the idea of changing the game only six years after adopting the code. However, World War I was starting, and thus future talks about the hybrid code remained largely dormant until 1933, ultimately never to pass. The Great War and its timing invariably affected this decision, with the shorthand writer Arthur F. Rutter summarizing the day's discussion in the following words: "The Delegates agreed that it would be inadvisable at the present juncture to publish the result of their deliberations. All that could be said was that a conference had been held and that the Delegates on both sides were tentatively in favour of certain modifications in the laws of the two games which might, ultimately, lead to the creation of a new All-Australian game."³⁹²

As observed with the elimination of contest in the scrum, this change was undertaken without administration or any true policy change. The laws of the game remained the same and contest is still permitted, albeit not 'the done thing'. It seems to have begun a trend since

³⁹⁰ Rutter, "Copy REPORT of 1914 and 1933. CONFERENCE N.S.W. RUGBY LEAGUE and AUSTRALIAN FOOTBALL LEAGUE." p. 11

³⁹¹ Rutter. p.11

³⁹² Rutter. p. 15

this is similar to another aspect of the game changing. Like the progression from heel to palm to snapping the football on the gridiron, it is reasonable to view the current standing of rugby league's play-the-ball as undergoing the process of similar changes.

When viewing footage of the game from both England's RFL and Australia's various rugby league competitions, it is clear that the requirement to heel the ball back is being ignored, with players rolling it back with the palm. The progression seen here is the same as what occurred in North America, and one has to wonder whether this trend will continue, with a tackled player eventually just standing up and snapping or handing the ball back.

It is clear that the various leagues and referee associations have little interest in enforcing the law as written, which is similar to not contesting the scrum, though not exactly. Unlike willingly not participating in a part of the game that is permitted, players in this case are actively *breaking* the laws of the game without penalty. People may wonder why even have a law that requires the player to stand, place the ball on the ground and then restart play with the foot.³⁹³ The reason for this is because, as Harford Willing Hare Powel stated, the game has now changed so much that its supporters would no longer recognize the sport if they were to view a match from yesteryear. As stated, the play-the-ball was meant to be a mini-scrum, which was defined as being contested by hacking at the ball with the feet. Now that the game had been Americanized so much for so long, this style of play evinced in the 19th and early 20th centuries by the players, coaches and administrators is no longer apparent. Again, though the NRL's stance has been to enforce the play-the-ball tradition, the Super League and other RFL subsidiaries have decided not to in an almost 1880s gridiron evolutionary way where the ball was allowed to be rolled instead of heeled only to later change again to the snap.

As David Nelson wrote, "Rulemakers in any era believe that their solutions to

³⁹³ Collins, *The Oval World*.

problems are permanent. But changes in skills, size, and strategy require frequent adjustments.”³⁹⁴ With this in mind, and to summarize, the adaptations of laws from rugby league and even its pre-1895 origin have come a long way. To review, the reintroduction of the play-the-ball, reduction to 13 per side, shifting away from the contested play-the-ball (mini-scrum), four and then six limited tackles, not contesting the scrum, and now the reduced emphasis on using the foot in the play-the-ball are all in direct reaction to American sport, even in the first example where the origin was English but kept within the North American countries. The main difference in many of these cases is that convention changed though the letter of the law was never altered, whereas the American and Canadian football codes have instead made official changes in word *and* in action. Therefore, the history of rugby league’s laws has been a predominantly and consistently delayed extension from the North American gridiron. Though this may come across as perhaps accusing rugby league of plagiarizing its favorite parts of the gridiron, it is not. Rather, all codes A) learned from one another; and B) it is important to realize that American football greats like Walter Camp and Pop Warner were vehemently against the forward pass, even if the former and certainly the latter benefitted from its introduction.^{395 396 397 398} If not for being in the minority of the vote back in 1906, the game of the American gridiron would likely bear even more of a resemblance to today’s rugby league.

Conclusion

This chapter has discussed the Americanization of rugby league in the sense that, since at least the 1960s, administrators of the sport, by their actions, have shown an increased focus

³⁹⁴ Nelson, *The Anatomy of a Game*, 1995. p. 49

³⁹⁵ “Walter Camp Favors Restriction of Forward Pass | News | The Harvard Crimson.”

³⁹⁶ Nelson, *The Anatomy of a Game*, 1995.

³⁹⁷ “‘Minutes of AIFRC,’ 5 and 6 February 1910, 1.”

³⁹⁸ Warner, *A Course in Football for Players and Coaches*.

on looking to American football and American sport for how it should adapt going forward. The converse is also true of 1960s and now present administrators looking to English sport. Therefore, it is reasonable to keep examining the gridiron's past and present for inspiration on what may, could, or should come next in the ever-evolving code of rugby league since, as Jack Gibson once said in regards to rugby league and the gridiron, "same game, different rules."³⁹⁹

In doing so, this chapter has contributed to the existing knowledge on the subject by expanding the discussion beyond national boundaries and placing rugby league's evolution within an international framework. While works such as Nelson's have outlined key developments in the sport's tactical and structural changes, the analysis here provides a deeper understanding of how these shifts have taken place in relation to American football, highlighting the transnational nature of rugby league's modernization. By drawing on examples from both North America and England, this chapter has demonstrated that the forces shaping rugby league's trajectory are not solely internal but are influenced by broader sporting trends and administrative philosophies. In this sense, the chapter not only builds upon existing literature but also strengthens the understanding of rugby league's connection to gridiron football as part of a wider global conversation on the evolution of contact sports.

³⁹⁹ Lennox, *Now You Know Football*.

Chapter 5: The Americanization of Australia's First American Gridiron Player, Pat O'Dea: The State and Evolution of American Sport and Pat O'Dea 1880~1896

This chapter spends significant time on the influence of Australian footballer Pat O'Dea, the "Kangaroo Kicker," who immigrated to the United States, making him among the first Australian sporting figures to do so.⁴⁰⁴ His exploits as an Australian in American sport are so recognized that a truncated version of his story is found in *The Australian Dictionary of Bibliography*. O'Dea's influence on the game is explored, as is his legacy of commencing various waves of other athletes coming to the United States, and how this influenced the game and its codes. Furthermore, O'Dea's immigration came during the same time that his adopted state of Wisconsin ensconced at-will employment, thus offering a nexus of employment standards in the United States and their intersection with sport, the notion of "celebrity," and large salaries for star athletes. Key texts include Dave Revsine's 'The Opening Kickoff: The Tumultuous Birth of a Football Nation,' which shares some of the darker sides of American football's early days, including a bevy of injuries and early deaths of its players. Revsine's book also discusses in great detail Pat O'Dea's life and trajectory as an Australian sport player and his later career playing and coaching in America, and details how this was crucial for the Australia-United States interlink. O'Dea's arc provides a way into examining the notion of celebrity in the pre-WWI era, which was also touched upon by Gideon Haigh in his biography of Victor Trumper, 'Stroke of Genius: Victor Trumper and the Shot that Changed Cricket.'⁴⁰⁵ The research also relies upon Tony Collins' 'Unexceptional Exceptionalism: The Origins of American Football in a Transnational Context'; Collins effectively questioned that "accepted" tradition that American social evolution is exceptional and above all others.

⁴⁰⁴ Griffin, "O'Dea, Patrick John (Pat) (1872–1962)."

⁴⁰⁵ Haigh, *Stroke of Genius*.

Despite O'Dea's significance as one of the first Australian sporting figures to make an impact in the United States, there has been little scholarly attention paid to Australian emigrants to the U.S. during this period, particularly in the realm of sport.⁴⁰⁶ While prior research has examined broader aspects of transnational athlete movement, this chapter contributes to filling a gap in the historiography by contextualizing O'Dea's journey within the larger framework of migration, sport, and Americanization. As noted in prior discussions of English-speaking expatriates in American collegiate athletics, the ability of Australians to integrate into the U.S. sporting system was influenced by cultural, linguistic, and racial factors, making their experiences distinct from those of other immigrant groups. This chapter extends these discussions by offering a focused case study on O'Dea, providing a foundation for further research on other Australians who followed in his footsteps. In doing so, it strengthens the understanding of the connection between rugby football, American football, and the broader structures that facilitated international athlete migration in the late nineteenth and early twentieth centuries.

Introduction

In previous chapters, the nature of at-will employment, its impact on American culture and, by extension, said culture's impact on rugby league has been examined. Rugby league has been the focus for how Americanization, as it has been defined here, has impacted specific sports and, in this case, a football code. This chapter, along with the following, will examine the impact American culture has had on the individual, along with what relationships and cultural paradigms have been present since the late 1800s, and which have developed through greater U.S. influence. This chapter will explore the way in which the Americanization of sport in the late nineteenth and early twentieth centuries had an impact on

⁴⁰⁶ Moore, *Australians in America, 1876-1976*.

individuals. If it is understood that Americanization accelerated commercialization and professionalism in sport, this can be examined through the career and life of Pat O'Dea. His football career began with Australian rules football in Melbourne but he gained international fame, success, and reward as a result of his career playing on the gridiron at the University of Wisconsin.

This chapter draws on the existing work regarding the rise of the sports star in the United States such as, but not limited to Charles Leonard Ponce de Leon's *Self-exposure: Human-interest Journalism and the Emergence of Celebrity in America, 1890-1940*, Merrill J. Melnick and Steven J. Jackson's *Globalization American-Style and Reference Idol Selection: The Importance of Athlete Celebrity Others among New Zealand Youth*, Seán Crosson's *Affirming the American Dream via the Sports /Film Star*, and Mark Dyreson's *The Emergence of Consumer Culture and the Transformation of Physical Culture: American Sport in the 1920s* amongst others.

There have been more than a handful of Australians who played sports in America from 1895 to 2024. Some stayed in the United States while others returned to Australia. Others moved to other countries, while still others have done so but then returned to America or Australia. However, the first player to truly make his mark, not only as a coach but also as a prominent athlete and star, was Pat O'Dea, also known as the Kangaroo Kicker. Many times, being first is given more emphasis than it should versus commencing or perpetuating a trend. O'Dea started a trend in sport, while also remaining in the United States for the rest of his life. Many athletes had come from England, Australia, and other former Empire countries to make money as coaches in the United States, where doing so was not frowned upon as it was in their homelands. But O'Dea was the first person to not only play but also achieve true celebrity status wherein news of his success and exploits appeared in popular media of his playing time from 1896-1900, and continued to do so even up until his death in 1962. He

not only moved to America but embraced American culture. It just so happens that the year he moved to Wisconsin was the same year at-will employment was also introduced in the United States (1895). It was truly a time of change not just in law and culture but also, as previously discussed and to be further expanded upon, also the laws/rules of sport.

During the infancy (1800s) and “teenaged” years (early 1900s) of football codes, there began to be clearer and starker differences between the laws and rules of each game. As football codes became more and more different from one another, athletes continued to further specialize in the skills of their sport, which did not always easily transfer over to other football codes. Today, the differences between codes are much more pronounced, but that is not to say that someone like Pat O’Dea switching from Australians Rules to the American gridiron was a simple feat; it was, and is still, quite an achievement. The same can be said in regards to his efforts to Americanize despite what appears to be his great misunderstandings of the culture at large. Where the rules of different football codes have continually diverged, one could argue the opposite has happened in regards to culture. Since News Corp and Fox-owned, -distributed and -exhibited, US-based products have been a constant presence in the Australian household since the 1990s, amongst other outlets for American soft-power, American popular culture awareness in Australia is much greater than before. However, on the field, despite living in a world of greater connectivity, (pre-lockdown) global air travel, and sharing of information, it hasn’t been enough for the seamless transitions between football codes made by the likes of Australian Rules players such as O’Dea and, about three decades later, Edward “Carji” Greeves, who also happened to be the first winner of the Brownlow Medal. Adjusting to a new system not only applies to how the game is played on the field but also to life off the field.

Before continuing onto the modern history of Australian Rules footballers in the modern era of NFL and NCAA football punting, it is crucial to look back at and understand

the differences and similarities made by the select few athletes who made the leap into the American game as early as 1895. Based on the events that unfolded in Pat O'Dea's early Australian, and later predominantly American-based, life, he was likely the first Australian footballer to "Americanize" rather than be an "Australian in America." Unlike many Australians who followed, O'Dea remained in America after moving there in 1895 at around 23 years of age. He would stay for the next 67 years; he at first adapted to, and later fully adopted and embraced, American culture while still maintaining his "Australian" charm. He didn't change his accent, but nearly everything else about him adjusted to the so-called Wild West ethos of US sports culture. The fact that he remained in America, despite the troubles that he would later have with the law is quite interesting because it demonstrates his adoption of America as his home even in these circumstances. Moreover, it demonstrates that, with the support he had from his friends and colleagues, he was still accepted in America as part of the social fabric before, during, and after his time in hiding. Americans accepted him despite his clearly not being from there as demonstrated by maintaining his accent, not that one would be expected to change one's accent especially when moving countries in adult life.

This shows the American acceptance of O'Dea as a proverbial piece of the furniture in his American life despite not originating there and the Americans to which he surrounded himself with, accepting him for who he was. This is part of Americanization. People may not be able to fully melt into the melting pot but his decedents certainly have with their American accents. This is a fascinating aspect of Americanization given the "melting pot" and "mixed salad" descriptions of how those new to America are to Americanize. Maybe they are not mutually exclusive to one another but represent different aspects of becoming part of the American fabric. Those who move over to America as adults, unlike children, that can shed and adopt their early childhood accent more easily, will be overtly part of the "mixed salad" but their children and descendants will be part of "the melting pot."

This chapter examines the impact of Australian footballer Pat O’Dea’s move to the United States and how his career reflects broader themes of Americanization in sport. It explores O’Dea’s influence on the development of American football, the rise of the celebrity athlete, and the commercialization of individual players. Additionally, it considers the intersection of sport and labor by analyzing how O’Dea’s era coincided with the formalization of at-will employment in the United States, shaping the contractual and cultural expectations of athletes. Through these case studies, the chapter highlights the ways in which American sport absorbed and redefined external influences while reinforcing its own structures of professionalism, entertainment, and labor relations.

Dave Revsine writes about how Pat O’Dea had already set out on a path well before he came to America that would take him through times of tremendous success as well as abject failure and disgrace. Revsine’s opinion contains a lot of merit⁴⁰⁷ as what he describes stands in contrast to contemporary Australian athletes who went to the United States. Naturally, these contemporary Australians would have a different point of view as with Australian athletes that were already famous for another sport before leaving Australia.⁴⁰⁸ Another way to look at things, as opposed to Revsine’s theory, would be to consider that O’Dea’s life was not already on a set path to a conclusion with the magnitude of success in failure should he have stayed in Australia. That is to say, O’Dea could not have expected the level of success he achieved in the United States should he have stayed in Australia. America and Americans were open to embrace, ignore, pardon and/or look the other way when he was out of line, as will be discussed, because he was so good at what he did on the field; the commercial value O’Dea generated for his university as a football star was not a construct that existed in Australia. The latitude that he may have been permitted in Australia would

⁴⁰⁷ Revsine, *The Opening Kickoff*, 2014.

⁴⁰⁸ *An Australian Super Star Rugby Player Tries to Make an NFL Roster*.

have been far more restrictive, and his ability to earn university fame via any football code or sport there would have been minimal at best, especially in light of the American college football culture both then and now. Australia has a history of larrikin hagiography but this appears to be more of an idolizing of individual larrikins whilst most are not; this is a topic that could be its own in-depth study. In saying so, it is also fair to say that O'Dea's bad behavior might not have been ignored had he not gone to America, where his talent was embraced and he in turn embraced its culture. The commercialization and idolization of the athlete of university football is the way in which Americanization would have played a hand in this outcome when compared to Australia. If not for the star-power that O'Dea brought to the football team and all of the gate receipts and earnings that he generated for the university, it is likely that the average person would have been held to greater accountability in America. Moreover, without the financial incentive present in Australia that was normal in America for collegiate sport, it is also less likely that he would have been able to get away with what he did in America.

Due to the aforementioned, this chapter focuses predominantly on O'Dea as both star of the Victorian Football Association (VFA) and as collegiate American football star, as well as his presumptive heirs and other later Australians on the US gridiron, to obtain a greater understanding of who he was on and off the field, as well as why he was so important for the Americanization of sport.

O'Dea's Arc

O'Dea was rejected by Melbourne University three times despite being talented enough to play for both Melbourne Football Club and then Essendon Football Club (then located in East Melbourne, just a few hundred yards away). His skills as VFA footballer were not valued by Melbourne University, which was normal of Australian universities and still is

today when compared to American institutions like the University of Wisconsin. In the United States, he always had the support of the University of Wisconsin, its faculty and staff, his peers, and enjoyed all of the boosters and fame that came with being a footballer in America. He initially came to America looking for his brother, enrolled to study law at the University of Wisconsin, and was soon on the football team, though he began as a rower under his brother Andy's supervision thanks to his role as rowing coach. Pat O'Dea to this day holds two NCAA records, remains the only Australian in the American Football Hall of Fame, and he dated many prominent women, allegedly including Dame Nellie Melba.⁴⁰⁹ Pat also coached at two universities and started his law practice in California, seemingly a successful businessman of the era until his mostly self-inflicted challenges.⁴¹⁰

Before going into the details of his early life, it is important to understand that O'Dea's era of Australian rules was very different from today. Even the league in which he competed is not a direct ancestor of today's Australian Football League (AFL), and, in many ways, the rules were quite different then. To clarify, the VFA was the competition league that operated before and then alongside the VFL, which was rebranded in 1990 as the Australian Football League.^{411 412} In O'Dea's era of Australian rules football (1890s), players had already adapted to the open kicking game, not indigenous to the original style of play when the game was first created by bringing the laws of the rugby game from Rugby School to Melbourne by Tom Wills decades earlier. However, unlike today's game where Australian rules footballers almost exclusively rely on the drop punt, which is a great skill to adjust into the punter role of American football, that era still maintained the drop kick and place kick, which were also mutually beneficial skills on the American gridiron. Because American football had no

⁴⁰⁹ Revsine, *The Opening Kickoff*, 2014.

⁴¹⁰ Revsine.

⁴¹¹ Pennings, *Origins of Australian Football*, 2016.

⁴¹² Pennings, *Origins of Australian Football*, 2017.

forward pass and Australian rules footballers like O'Dea were accustomed to the first two types of kick on the run, this allowed O'Dea to succeed at the American football fullback position to score. This was especially value because of the greater value assigned to goals from kicking rather than touchdowns, which is the opposite of today.

O'Dea was, in many ways, the most willing recruit to be Americanized at a time when US professional and even many amateur athletes were put on pedestals in a way unheard of in the English Empire at that time. With that said, O'Dea's handsome white looks, exotic accent, and athletic skills/experience most certainly did not hurt his transition from true-blue Australian to red-blooded American.⁴¹³ (Most Americans have never met an Australian, then or now.) However, given that O'Dea was white, it might be safe to say that he would be viewed as a form of 'safe exoticism' for linguistic and skin pigment reasons. However, O'Dea made the most of how others perceived him. That accent earned him a reputation with the women of Madison by seeming "exotic," but this also worked in his alleged relationship with Australian singer Dame Nellie Melba, who possibly sought a piece of home while away.⁴¹⁴

Pat O'Dea was born in Kilmore, Victoria, in March of 1872.⁴¹⁵ In 1880, his father, Patrick Flannery O'Dea, passed away, leaving a hole in his family's already-turbulent life.⁴¹⁶ Patrick Flannery O'Dea was a well-liked member of the community in his role as a proprietor and mill owner, and that reputation seemed to extend to his young family as well.⁴¹⁷

⁴¹³ Revsine, *The Opening Kickoff*, 2014.

⁴¹⁴ Los Angeles Herald Staff, "Key and Bow Segment - Los Angeles Herald 11 June 1899 — California Digital Newspaper Collection."

⁴¹⁵ Kearney, "Kangaroo Kicker: How Kilmore's Most Famous Son Disappeared for 17 Years."

⁴¹⁶ Kilmore Free Press Writer, "P.F. O'Dea from Kilmore (Victoria) Free Press as Excerpted on 23 November 2002, by DianneLe Quiniat, President, Kilmore Historical Society; from the Files of Michael D. Shutko."

⁴¹⁷ Revsine, *The Opening Kickoff*, 2014.

Pat's older brother Andy left for America before Pat did but, unlike his younger brother, Andy maintained a fairly straight-and-narrow life, as shall be demonstrated in how their relationships converged and frayed many times in America. A level of instability was apparent in Pat and Andy's life from a young age, which may have motivated them to take greater risks than their peers and even to travel across the world.

Following P.F. O'Dea's passing, the boys' mother, Johanna O'Dea (née Crossley), decided to leave the quiet town of Kilmore for the city of Melbourne. There, young Patrick attended Xavier College, where he was known to be more of a student of the boot than the book. Though Xavier College now praises O'Dea's accomplishments in American football, whilst acknowledging his three seasons in the VFA, it is likely he would not be remembered at all were it not for his athletic accomplishments. O'Dea did become a practicing attorney in the United States when he moved to California, meaning that his average scholastic achievements back home did not hold him back professionally. In many ways, O'Dea made up for certain deficiencies in his personality with cunning, guile, charm, and hard work.

Pat O'Dea was first thrust into the spotlight at the modest age of 15, when he swam out to rescue his friend's mother who, despite being a strong swimmer, was drowning. Unfortunately, he was unable to save her as she was already dead by the time he got her back to shore. The newspapers fawned over the adolescent's effort and gumption to try and save the woman.⁴¹⁸ Certain contemporary reports emphasized that he saved the woman by bringing her to shore, but as with much of O'Dea's legend, certain aspects were exaggerated, or even entirely fictional.⁴¹⁹ Being unable to save a friend's mother is a tragic experience for any young man, but it would not be the last time O'Dea would be thrust into the spotlight, or experience water-borne tragedies.

⁴¹⁸ "Drowning of a Lady at Mordialloc."

⁴¹⁹ Woolcock, "The Forgotten Story of ... Patrick O'Dea."

While it is impossible to know how O'Dea internalized the media attention at age fifteen, the event marked the beginning of a lifelong pattern in which he would be celebrated in the press and often contribute to the shaping of his own public image. The newspaper wrote how O'Dea "pluckily swam out in the face of the breakers and he succeeded in obtaining a hold of the lady and in bringing her to shore."⁴²⁰ ⁴²¹ The papers focused on what O'Dea accomplished, and painted an image of success whilst minimizing the fact that he *did not* in fact rescue the drowning woman. O'Dea would utilize the media to his own advantage throughout his later life.⁴²²

At one point well into O'Dea's life in America, the story evolved to include sharks and focused solely on his getting his friend's mother, Mary Crooke, back to shore, thereby giving the impression he saved her life. Conveniently, in his own telling, O'Dea would leave out that she was already dead by the time they got to shore. It is not clear whether O'Dea always related the story this way while still in Australia, or whether a combination of snowballing legends and an increasing attrition of those with firsthand knowledge in America caused these true stories to become tall tales.

One thing is for certain: He had all the tools to succeed in America. On the field O'Dea's on-the-run kicking and goal scoring were revolutionary, and off the field, his legend became increasingly larger than life. And in the United States, a country that looked the other way from murderers⁴²³ and exploited the mentally handicapped,⁴²⁴ ⁴²⁵ if they had great skills in professional baseball, a personality such as O'Dea's would either fit in right away or he would learn to fit in very quickly. As evidenced, O'Dea was a bit of a larrikin but not to

⁴²⁰ "Drowning of a Lady at Mordialloc."

⁴²¹ Revsine, *The Opening Kickoff*, 2014.

⁴²² Woolcock, "The Forgotten Story of ... Patrick O'Dea."

⁴²³ *The Pitcher Who Was a Drunk, a Killer, and an MLB Record Holder for Most Home Runs given up. Charlie Sweeney.*

⁴²⁴ Levy, *Rube Waddell*.

⁴²⁵ *Rube Waddell Is Baseball's Most Interesting Man.*

the extent of fame as a Ned Kelly or other *bushrangers*. He did not have great notoriety but, if he had that of Kelly, it would not have been positive keeping in mind that Ned and the whole Kelly gang died in a shootout with the law in Glenrowan, VIC or executed after being captured.

Professionalism and Sport

Professionalism in baseball may have influenced English soccer, which also soon started paying players. The game started promoting a system wherein anyone could afford to play, not only those of leisure who had both the time and money as well as ability to miss work. Although football was still strongly amateur and controlled by the universities in the United States, baseball was already professional. Several examples help provide context of the world Pat O'Dea was about to enter.

Though there were highly abnormal stories of players getting away with far more than would have been acceptable in Australia, such as baseball players such as Charlie Sweeney and Edward "Rube" Waddell, it is clear from O'Dea's actions that he did not distinguish the degree of different standards in American culture and expectation. Sweeney and Waddell's experiences happened to have coincided and nearly coincided, respectively, with Pat O'Dea about to take the helm as captain of the Wisconsin Badgers after two years playing and kicking his way to stardom.⁴²⁶ In contrast, Australian football took a far stricter approach to player behavior, both on and off the field. The early years of the VFL saw numerous cases where players faced severe consequences for actions that American professional sports often overlooked. In 1909, Essendon's Alex "Joker" Hall was suspended for the entire season for striking an opponent, reinforcing that even a club captain was not immune from disciplinary

⁴²⁶ Rainey, "Charlie Sweeney | Society for American Baseball Research."

action.⁴²⁷ Similarly, Carlton's George Topping was banned for life (later commuted) in 1924 after an on-field incident, a level of punishment rarely seen in American sport during the same period. Such examples highlight how the Australian system maintained tighter control over player conduct, making O'Dea's experiences in the United States all the more striking.⁴²⁸

Notably, the same process of a political official protecting a "golden boy" of athletics would also play out in O'Dea's life years after he had retired from the game. It not only happened in California but again in San Francisco, where Sweeney's alleged murder case was tried. The big difference is how O'Dea's "protection" extended even further to interstate politics and business. In O'Dea's defense, he did not kill anyone, but his deep contacts allowed him to live a much longer life of relative peace and privilege after his court date.

Seemingly out of left field, but germane to the "wild west" culture of US sports, it is also important to see how things could also go the other way in US professional sport. Charlie Sweeney was White and talented as an athlete. When he got in trouble, political figures and others protected him. However, this was certainly not true for all athletes at the time. It is unclear whether or not O'Dea fully understood the gravity of the situation he would eventually find himself in, or how lucky he was to have friends in high places.

O'Dea enjoyed great fortune. He had gifts and talents beyond football that complemented his charm and resourcefulness, unlike the physically gifted but mentally challenged Waddell, who, after being used to win games, was kicked to the curb and left to his own demise.

⁴²⁷ "THE LABOR OF SPORT."

⁴²⁸ "ALLEGED ASSAULT."

From 1892 to 1895, O’Dea played two seasons for Melbourne Football Club and all but one game in his final season for Essendon Football Club.⁴²⁹ Up to this point in his life, he had lived close to home, going only so far as Melbourne, where he was a student of Xavier College, and where, as mentioned, he wasn’t known for his book smarts but for his boot smarts.⁴³⁰ When he did move from Melbourne FC to Essendon FC, it was at a time when the latter club was actually playing at East Melbourne Cricket Ground, thus narrowing the distance from six to ten kilometers to Moonee Valley down to a few hundred meters from the Melbourne Cricket Ground at best.⁴³¹ The reason for doing so was likely financial since, according to Mark Pennings, Essendon was paying more in an effort to bolster a depleted side thanks to the departures of greats such as Albert Thurgood and others to Western Australia.⁴³² This on-field strategy made sense for the club since O’Dea was known as being a competent footballer of fairly standard body proportions for the game still run by the Victorian Football Association. That is not to say he stood out, as he later would on the American gridiron as he made a much larger impact in the US, even being significantly thinner than most US footballers. However, there is little recorded about him from this specific era.⁴³³

In *The Opening Kickoff* by Dave Revsine, the author took great care in getting each detail correct about Pat O’Dea, his brother Andrew, their ancestry, and their early life in Australia. Revsine is an American, as was his editor, so it is important to point out that the book states how Pat O’Dea “played for North Melbourne and Melbourne in the early 1890s and was named as an alternate to the All-Victorian team in 1894. In 1895, he made the move

⁴²⁹ Pennings and Kassimir, “You’d Think This Email Was to Be for Lynda at MFC but... / Pat O’Dea and Essendon,” August 9, 2018.

⁴³⁰ Allen, “Pat O’Dea Collection from David G Allen at Melbourne Cricket Club Library.”

⁴³¹ Caruso, *Football Grounds of Melbourne*.

⁴³² Pennings and Kassimir, “You’d Think This Email Was to Be for Lynda at MFC but... / Pat O’Dea and Essendon,” August 9, 2018.

⁴³³ Allen, “Pat O’Dea: The ‘Kangaroo Kicker’ with the ‘Educated Toe.’”

to Essendon just north of Melbourne.”⁴³⁴ There are two points here that require clarification. Firstly, there seems to be a simple editor’s mistake in thinking North Melbourne is a general geographic area and not the name of a specific suburb with its own club, now known as North Melbourne FC or North Melbourne Kangaroos. Unfortunately, despite the club’s strong historically Catholic identity (similar to the O’Dea family), there is no record of O’Dea ever playing for them. O’Dea’s absence from these lists was confirmed in an email to the AFL’s (and Geelong’s) historian Col Hutchinson and his trainee Tristan Adams Pasquill on 9 August 2019.⁴³⁵ The account is also corroborated via Mark Penning’s records as well.^{436 437}

Secondly, as mentioned, though the club was still known as the Essendon Football Club, the year O’Dea played for them was during their stint at East Melbourne Cricket Ground.⁴³⁸ This football/cricket pitch was not a short-term, temporary ground but the club’s home for 40 years until the venue was demolished in 1921 to make room for the Jolimont railway yards expansion.⁴³⁹ The team’s presence here was followed by an attempt to secure a new home field, and the idea was floated to merge with North Melbourne but 1) nothing came of it; and 2) this was nearly 26 years after O’Dea had already left for America. This seems at least partly to be the source of the confusion of saying he “played” for North Melbourne.

The most telling revision of O’Dea’s early life comes from 1895’s *The Melbourne Argus*, which states that O’Dea had “more resolution than usual ... and quite satisfied Essendon with his debut.”⁴⁴⁰ While this article and a few others serve as an exception, many

⁴³⁴ Revsine, *The Opening Kickoff*, 2014.

⁴³⁵ Kassimir, Hutchinson, and Pasquill, “Pat O’Dea,” August 9, 2019.

⁴³⁶ Pennings and Kassimir, “You’d Think This Email Was to Be for Lynda at MFC but... / Pat O’Dea and Essendon,” August 9, 2018.

⁴³⁷ Pennings, *Origins of Australian Football*, 2017.

⁴³⁸ “East Melbourne Cricket Ground | Boyles Football Photos.”

⁴³⁹ “East Melbourne Cricket Ground | Boyles Football Photos.”

⁴⁴⁰ “The Game of the Season.”

reports about O'Dea during this era, and later in his life, were written much later after the various events described. The delay from event to were public recording leaves room for the legend of his greatness to go largely unchallenged. It is safe to say that many of those who recounted his life story fell into apocryphal territory, such as his swimming/life-saving⁴⁴¹ and various differing accounts of how far certain punts and kicks went, but this is remarkably similar to what occurred with reporting on Abner Doubleday, Tom Wills, William Webb Ellis, Walter Camp, and many others. What makes O'Dea unique is that he was an athlete who made his fame by traveling across the world and playing a sport new to him, a sport that, unlike those others, he also was not alleged to have created.

America in O'Dea's Day

To contextualize the American O'Dea was living in, the 1890s were part of an era known as the Great Rapprochement, wherein England and its empire were focused on mending ties after 100 years of Anglophobia in the United States of America. For the United Kingdom, a new focus was on creating a greater English-speaking world in light of the empire losing the control it once had over such a large part of the world. Though this was largely aimed at political and economic reform, a soft power component was certainly already occurring in areas like athletics and other organized sports, as well as in education and higher learning. Given that O'Dea's prospects in Australia were limited with rejections from law schools and his brother's stable life in America, there was both opportunity and motivation to move to the United States.

Such academic motivations may be shocking, considering it was previously mentioned O'Dea was not the most apt pupil, but the benefits offered that his brother was already a part

⁴⁴¹ Kearney, "Kangaroo Kicker: How Kilmore's Most Famous Son Disappeared for 17 Years."

of were likely a motivator. Many English, Scottish, Welsh, and Irish athletes took up employment as coaches and instructors to train American athletes as they could be paid for their craft, with little to no cultural impediments and a common language. Andy O'Dea, Pat's older brother, was one of these many who sought gainful employment, and successfully did so. He found himself as the rowing coach and instructor at the University of Wisconsin, home of the Badgers football team, which he seemed to have little to no interest in.⁴⁴² Andy O'Dea moving for employment in the United States is also an extension of Americanization because his skills as an athletic coach were not valued as highly as in the United States where he could make a much better living because of the commercial value of collegiate sport and not just professional sport. The 1890s continued an influx of immigrants from the Empire whose citizens were looking for opportunity. Though the Great Famine/Great Hunger of Ireland had occurred over 40 years earlier, it stood as an example to later immigrants to the United States of the opportunities afforded to them in the United States. The knowledge of such mass migration to the United States was not limited to Ireland alone but throughout the Empire. However, unlike Ireland and the rest of the Europe based members of the Empire, the Australia O'Dea knew had a more stable pre-Federation life with few moving. Melbourne was the second largest city in the Empire after London and was the richest city in the world in the 1880s largely due to the gold rush. As capital of Victoria, it contrasted greatly to the occurrences happening in England, Scotland, Ireland and Wales. It is strange to think from a 21st century perspective that O'Dea, of Irish ancestry, wasn't truly Australian because he left before federation; he was Victorian from the colony of Victoria.

Andy had left Australia for Wisconsin before Pat had even finished playing Australian Rules Football, but the story of Pat's exodus is strange in and of itself. Firstly, according to Mark Pennings, the one game Pat missed in his final season for Essendon FC was also the

⁴⁴² Revsine, *The Opening Kickoff*, 2014.

final game of the 1895 season, 14 July.⁴⁴³ It is possible that he missed the game due to leaving for America briskly because of boat fares and/or passenger scheduling.⁴⁴⁴ However, one thing that is well documented is that Pat had no idea where in America his brother Andy was. What is recounted is that he knew his older brother was a rowing coach somewhere in the United States and “set sail” for his new life with the idea that he would simply just ask around at rowing clubs as to his brother’s whereabouts. Hopping on a ship to cross both the Northern/Southern and Eastern/Western Hemispheres was no small feat, but to do so without even knowing where he would conceivably find his brother borders on insanity; at the least, it shows a great willingness to take risks.⁴⁴⁵ In an almost comical fashion, the boat he took to America to find his brother, who had a very popular name, wasn’t even going to the United States but instead arrived in Vancouver, Canada, in 1895.

Even before setting foot on US soil to look for his brother Andy O’Dea, one can see that Pat O’Dea’s personality was already in somewhat alignment with American ideologies. In what is purely coincidence, his arrival to the United States coincided with the country’s judiciary deciding, in a very pro-business decision, that Americans do not have the protection of good cause to maintain employment.⁴⁴⁶ This form of at-will employment will be extensively covered in other chapters and how it shapes the American sport, cultural/social and business landscapes, but it is interesting to note that O’Dea has two connections to the issue. Firstly, he arrived the year the law changed in 1895 and, secondly, O’Dea ended protecting private businesses against workers unionizing. Though O’Dea’s arrival and the law change happening in the same year is just correlative and not causal, it is still interesting because his life in the United States would have been different should it not have changed.

⁴⁴³ Pennings and Kassimir, “You’d Think This Email Was to Be for Lynda at MFC but... / Pat O’Dea and Essendon,” August 9, 2018.

⁴⁴⁴ Pennings and Kassimir.

⁴⁴⁵ Revsine, *The Opening Kickoff*, 2014.

⁴⁴⁶ *Martin v. New York Life Ins. Co.* | Cases | Westlaw.

Like those who benefitted from these employment law changes, O'Dea's embrace of this American break from English common law and culture was to his own benefit. However, whereas many individuals of the British Empire took the opportunities of being paid to coach or utilize other skills not condoned at home, O'Dea was willing to go further. It is one thing to be paid for services but quite another to uphold and enforce against another's right to fair employment.

For the sport today known as Australian Rules Football, 1895, when O'Dea disembarked in Vancouver, was fortuitous for him. Firstly, it was not until after he left Australia that the upstart Victorian Football League began because many players wanted proper payment and the 11 clubs that left wanted more autonomy as they were unhappy with the VFA leadership. Just ten years earlier, the Football Association in England had professionalized, which was news across the British Empire as it departed from the strong cultural paradigms and morays promoting amateurism. This new Victorian Football League, despite having Melbourne FC as a member not as avid to have greater professionalism, did promote and grow professional payments.⁴⁴⁷ The VFA preceded the VFL and then continued to compete alongside it, but the latter outshined its older sibling, so much so that the organization was rebranded in 1990, and is currently known as the Australian Football League (AFL).

Upon arriving in Canada, O'Dea simply started to ask around where he could find his brother, starting at various boxing and rowing clubs, asking if anyone had seen or heard of the man associated with the Yarra-Yarra stroke. While Revsine makes it sound as if Pat had no trouble at all locating his brother, O'Dea is quoted as saying, "there are maybe a thousand Andy O'Dea's in the world but only one who could be teaching the Australian stroke Yarra-

⁴⁴⁷ Pennings, *Origins of Australian Football*, 2016.

Yarra at Wisconsin.”⁴⁴⁸ Moreover, O’Dea even made good time traveling from Vancouver to the Midwest university campus at Madison.⁴⁴⁹ In Revsine’s *The Opening Kickoff*, he states:

Pat had arrived in Vancouver and, knowing of Andy’s interest in boxing and rowing, began to inquire in gyms and at boathouses about his brother. One of the oarsmen told him that an Andy O’Dea, practitioner of the unusual Yarra-Yarra stroke, had recently taken a job as the crew coach at Wisconsin. Pleased to get the tip, Pat shook the man’s hand in thanks... So Pat hopped on a train and made the long journey to Madison.⁴⁵⁰

Again, Revsine’s research is very in-depth, and there is little reason for doubting his account. As discussed, much of what Pat O’Dea told of his own later life was likely embellished, but his plucky quest to find his brother jibes with what is known of the then-24-year-old. As for what he did for football, where his brother brought the Yarra- Yarra stroke to the University of Wisconsin in Madison, O’Dea would set two records. He is recorded to have kicked a 62-yard drop kick, a record that is unlikely to break as the ball is now smaller, pointier, and denser in addition to the modern game now having the more reliable place kick (field goal). He also is recorded to have kicked a 110-yard punt, which is now impossible to achieve since the field size is now only 110 yards long in American football, though it still is 110 yards in Canadian football. Combined with his being a white, English-speaking Australian, his success plus good looks provided Americans with the feeling of what could be called “safe exoticism.”

What is important to realize is that, at this time, football was still an amateur sport, partly as a result of people like Walter Camp, who believed in the merits of Muscular Christianity. Camp, unlike most of his Yale classmates and later colleagues, was not wealthy, but he did subscribe to the ideals of amateurism as a means of self-betterment. Even if football’s Muscular Christianity English origins were used for the purpose of social control

⁴⁴⁸ Ryan, “O’Dea Devoted to U.W.,” April 5, 1962.

⁴⁴⁹ Revsine, *The Opening Kickoff*, 2014.

⁴⁵⁰ Revsine.

by promoting a false narrative about the beauty of amateurism, when in fact its driving cause was to ensure those who could not afford to miss work could not afford to play, as would be the case in practice prior to the advent and success of professionalism in football, Camp still fervently defended amateurism's merits. As a result, the sport largely remained a university sport until the advent of the National Football League, originally known as the American Professional Football Association before changing its name to the current one in 1922. The NFL did not even come into existence until 1920, 24 years after O'Dea's rookie season. Even then, the league saw many clubs fold as a result of poor management and the exponentially greater popularity of the college game. The number of clubs that folded in the 1920s alone was as high as 45.⁴⁵¹ This was by some accounts, so it is safe to say that in O'Dea's era, there was no credible threat from pro football, putting the majority of focus and star power on the university game and its players. If there were an option to be paid by going professional post-collegiate career, or even during, O'Dea would have probably been open to such an idea as greater pay was the reason he switched from Australian Rules football clubs back in Australia.⁴⁵²

It is interesting to note that, like Camp, O'Dea was not wealthy. Even so, both men ended up fighting for wealthy ideologies that would have limited them in the forms of amateurism and at-will employment during their less than wealthy upbringings. It is unlikely that, but for their friendships with the social and economic elites, they would not have advocated for such positions. Both O'Dea and Camp associated with wealthier people at the Melbourne Football Club and later the University of Wisconsin and Yale, respectively, and this shaped their lives in many ways despite their humble origins. They each made

⁴⁵¹ "National Football League Franchise Histories - Football History | Pro Football Hall of Fame Official Site."

⁴⁵² Pennings and Kassimir, "You'd Think This Email Was to Be for Lynda at MFC but... / Pat O'Dea and Essendon," August 9, 2018.

decisions that were otherwise inconsistent with their backgrounds. Specifically, they both were later provided jobs by taking strong stances against the working class. Camp went on to be the czar/guru of college football with positions of control for decades, and for O'Dea, even when times were tough, he was given work and looked after by his old chums in exchange for union-busting.⁴⁵³

It is crucial to understand that at the time, university amateur football still existed side by side with fully professional baseball, meaning that the star power afforded to athletes of the bat code could be enjoyed by football players as well, even if baseball players were paid and football players were not. Football players were also massive stars with larger-than-life personalities and personas, despite not being paid. To understand the sports-star American life O'Dea was about to experience, it is instructive to look at high-profile athletes in both the professional baseball and university football realms in the years leading up to, and even including, O'Dea's era. The logic behind this comparison is because baseball had largely set the tone and pace of sports as a form of voyeuristic mass entertainment as a consumable product. Therefore, players in both baseball and football can be viewed as a part of that mass consumption style of entertainment.

The College Code

In the 1890s, college football was the only major football code in the United States. It was so important that when many wanted to ban it, President Theodore Roosevelt personally stepped in to save the sport by supporting Walter Camp and others in the collegiate system against many mothers that wanted the sport banned. He even contacted the Victorian Football League for a copy of their constitution as part of a best football practices learning

⁴⁵³ Revsine, *The Opening Kickoff*, 2014.

experience.⁴⁵⁴ The crowds were well into the tens of thousands and would (and still do) eclipse 100,000 spectators. Much of what we know about Pat O'Dea is thanks to the extensive media coverage including but not limited to both reputable and yellow journalism sources. By acknowledging that both trustworthy and pulp entertainment news sources were covering both the sport and the players/personalities associated with football, baseball, and other competition, it is clear how the conversation and focus on the NCAA matched that of professional baseball.

This mobility of professional American sports teams (clubs) is not the case with university sports since the institution extends far beyond that of the specific team sport being played. The stability and loyalty of a team to its fans is built into the NCAA amateur model, albeit not for the fans' sake but rather due to the organic limitations of representing an entire institution that does not entirely revolve around a sports team.

Universities of the 19th, 20th, and 21st century all speak to the fan in a much more personalized way since many fans are undergraduate or graduate students, faculty, or staff of that institution. The connection is therefore genuine because everyone feels a part of that greater identity through either working or studying at the institution. The continuity of place over time, along with the authentic connection to a university, is likely one of the strongest contributing reasons to NCAA stadiums being larger than those in the NFL.

This allegiance to alma mater helps explain why Pat O'Dea thrived. Wisconsin may have been prominent in college football's western division, but the politics then were the same as today. As previously covered regarding the practices surrounding professional baseball players of the era, such as George "Rube" Waddell and Charlie Sweeney, O'Dea was able to thrive even in the unpaid world of collegiate football. That is not to say that it wasn't more restrictive in other ways, but, by and large, he was able to get away with and

⁴⁵⁴ Wilson, "VFL Minutes 1903-1908."

become the legend of the “Kangaroo Kicker” as he drifted further away from other opportunities had he not become famous in sport at all. In Australia, he had already shown a proclivity of enjoying the limelight and a willingness to take risks by traveling to the United States on what seems to be a whim induced by boredom at home.⁴⁵⁵ His rejection of law school was likely a factor as well, but it is clear that starting for Melbourne FC and Essendon FC was not fulfilling enough to keep him here. But this was nothing when comparing an English-driven culture of “tall poppy syndrome” to that of an American culture that reveres stories of “the poor boy that made good.” How much better the story was when its character was exotic to his public. In this sense, Pat O’Dea’s personality became unshackled from the culture of his birth, which frowned upon professionalism and stardom; being on the other side of the world, where he could embellish and promote his history and future, was a perfect match, just as his skills were perfect for playing American football. Though a type of professionalism did exist in the VFA (the VFL was created a year after he left) where there was limited forms remuneration, it was not to the same extent as the National League for baseball in America nor the Football Association for soccer in England. This is evidenced from O’Dea’s choice to move from Melbourne FC to Essendon FC where it is said to have better pay.⁴⁵⁶ There still was a degree of social cringe for being paid as Melbourne FC was staunchly against any type of payment. Furthermore, just across the colony lines of the Murray River between Victoria and New South Wales, rugby union still was, at least superficially, staunchly amateur as per their official position. Though rugby league would be in extant by breaking off from rugby union in England in 1895 over its position to allow for player payments, this was across the world and would take until 1908, another 13 years to

⁴⁵⁵ Revsine, Call with Dave Revsine. Author of *The Opening Kickoff: The Tumultuous Birth of a Football Nation*.

⁴⁵⁶ Revsine, *The Opening Kickoff*, 2014.

come to Australia. O'Dea would not only be long gone but would have also completed his football career in 1900.

As risky as one might view his choices, the stakes were dramatically higher in O'Dea's time. Yet after seeking out his brother in a foreign land, the record of their eventual conversation is quite anticlimactic.⁴⁵⁷ Despite not seeing each other since Andy's leaving, the conversation was fairly emotionless, and their talk touched upon the fact that Pat was tired of Australia, and that's why he decided to show up in America. This part of the journey is only the first part of Pat's transformation from local Australian footballer to "the Kangaroo Kicker," an exotic Australian legend in America. O'Dea was a safe form of exoticism to Americans as he was still English-speaking, white and Christian, though there were likely some who had doubts due to his Irish Catholic name and ties to the Empire, even amid the Great Rapprochement.

Though already 24 years old, at which point most men his age were seemingly finished with education, and unlike Andy, Pat decided to enroll at the University of Wisconsin and join his brother's rowing team. He did row for a short while at the university, but this episode featured a dramatic storm wherein John Day, O'Dea's close friend on the water and in track and field, drowned while they were fighting to get back to shore.⁴⁵⁸ One cannot help but feel for young Pat, since this was the second time a person truly close to him drowned, and also the second time he had been unable to save that person. Later on, O'Dea was known to have embellished and claimed that he saved his friend's mother, or at least given that impression when saying he had pulled her back to shore in Melbourne. After this second incident, he would never go back to water sports. While there is no direct record of O'Dea speaking about his emotional state after these events, contemporary coverage of John Day's

⁴⁵⁷ Ryan, "O'Dea Devoted to U.W.," April 5, 1962.

⁴⁵⁸ "John Day Drowned in a Madison Lake.," 8 April 1896

drowning in 1896 confirms the traumatic nature of the experience. Later retellings of earlier incidents, such as those reflected in *O'Dea Devoted to U.W.* (1962), suggest a pattern of narrative reshaping that may indicate a coping mechanism, whether conscious or not.

The silver lining of O'Dea stepping away from the water is that it provided him the ability to focus on his law studies at the university and get involved in another sport. It was not long after John Day's death, in September 1896, that O'Dea would accidentally come across the gridiron ball and begin the next step towards legendary status.

If this sounds familiar, there are many origin stories told about a young man who knew nothing of the game, or of his own worth, walking by the field where the team was practicing, only to do something miraculous that gets the coach's and/or team's attention. O'Dea is said to have been walking by the field when a stray ball rolled his way. Effortlessly, he booted it back, sending it over the heads of the team, and it landed around 75 yards away. He is then said to have tried to walk away quietly, misunderstanding why people were yelling; he assumed he'd breached some unknown American social rule and that what he had done was taboo.⁴⁵⁹ In reality, coach Phil King was trying to get him to consider joining the team, despite a very big difference from the game he had played according to Australian rules.

It is no accident that this narrative became popular. Not only does it speak to the ideals of the American dream, where anyone who works hard can make it, but it also appeals to the classic values of humility and earnestness, and being in the right place at the right time. It is not unlike the title character of *Tom Brown's School Days*, who had to learn to be strong on and off the pitch; this sentiment was similar in the "Americanized" version that Walter Camp would write and tailor for his domestic audience.

Game Changes

⁴⁵⁹ Revsine, *The Opening Kickoff*, 2014.

O'Dea was well built for Australian footy, but he was perhaps too thin and lanky, and potentially even frail, for American football even in his own time. Years after his playing days had ended, he was described as being like the egg in "an egg and spoon race," wherein his teammates would focus their attention on protecting the body that was attached to the golden boot.

The game of football being played at the time resulted in the deaths of many young men, leading to the ineffective rule reforms of 1896, when O'Dea began to play. The key word being "ineffective," since the rules were changed yet again under threat of the sport being banned in 1906 due to the death of 45 student athletes between 1900 and 1905, of which 18 alone happened in the final year.⁴⁶⁰ Despite the dangers, his lack of knowledge about the American game and his "wrong" body type, O'Dea was on the team the very next day after he is said to have kicked the ball a tremendous distance while returning it to the football players.

As mentioned, the American narrative of the boy who made good is a powerful one that has driven, and continues to drive, modern culture in the States. Stories of Levi, of "Levi Strauss Jeans," coming off the boat and making a great product strikes at the core of the American story. That is not to say that Australia lacks the chance to improve oneself, however, due to its strong historical ties with England in the late 1800s, the connection to England's old class rigidity was still very present, and such "rags to riches" stories weren't nearly as prominent as in America.

In the chapter on the Americanization of rugby league, there was discussion surrounding its origins from the point of view of the game's laws but also the socioeconomic rationale in the great schism between rugby union and league. Muscular Christianity may have been the vehicle that promoted good amateur values, but it was fueled by an obsession

⁴⁶⁰ Jardins, *Walter Camp*.

for control over the working class by the nobility and leisure class in England. Having people pay to play was a way the workingman could afford to risk injury and lost time from work. It is merely a coincidence that Pat O'Dea's beginning his football career at the University of Wisconsin happened in the same year unified rugby split in two for its first season in 1896. Though American sport had no great schism like its older brother in rugby, the fact that these two occurrences happened in the same year illustrates just how different the cultures of British Empire nations were from that of the United States, and the values O'Dea left behind in Australia. England may have split over professional and amateur rugby, but the United States had very little concern with professional baseball and, to a similar extent, the shamateurism of collegiate football. "Shamateurism" is the pretense and veneer of amateur values while enacting many professional practices privately. Originally, it was a practice in England that allowed the rugby football union to turn a blind eye to player payments in other countries but still maintain their control over the game's direction without turning their back on their social hierarchical beliefs via Muscular Christianity.⁴⁶¹

Though football was technically amateur, players received many benefits, including under-the-table financial and other perks. Moreover, due to the divided nature of the leagues and districts in football, many rules were more so treated as guidelines even if they were in fact codified. The lack of hard enforcement and flexibility allowed O'Dea to enter university at the age of 24, and despite having played professional Australian rules football back home. For many, this would have precluded an athlete from going back into amateur sport, but with weak enforcement of the laws governing university eligibility, he was soon both in the university and on the team.

⁴⁶¹ Collins, "Unexceptional Exceptionalism: The Origins of American Football in a Transnational Context | Journal of Global History | Cambridge Core."

There are many parallels between what O'Dea went through in becoming eligible to play for Wisconsin and what players today must do. Being amateur seems to be an ever-changing definition, as does professionalism. It would be hard to find a person who would agree to the 1895 definition of professionalism in rugby league, which was largely limited to subsidizing a player for broken time or time missed from work as a result of playing or being injured as a result of rugby league.⁴⁶² Professionalism has grown well beyond this definition in the former Empire, and the number of professionals involved in American baseball at the time are dwarfed by today's standards. The notion of "amateurism" has its flaw in this ever-changing landscape, but what is consistent in its meaning is for coaches and, at times, entire universities, to get a player to help their team win. The win (or earn) at all costs mentality was prevalent in O'Dea's era as well. Universities in the 1890s fought about money and gate receipts and, despite there not being money from broadcast revenue, still bitterly fought for their share of the earnings. Moreover, many of the university presidents that absolutely hated collegiate sport, such as Wisconsin's John Bascom, were beginning to retire. Bascom was a man said to have "deplored college athletics," and his successor, Thomas Chamberlain, was only marginally better.⁴⁶³

Due to the end of Chamberlain's tenure in 1892 and the beginning of the term of the new president, Charles Kendall Adams, Wisconsin football began to cater to the college athlete. This occurred just four years before Pat O'Dea would play for Wisconsin, and the stage was set. O'Dea was learning to work in a brand-new system that encouraged skirting the laws of the system. O'Dea was a three-time rejected applicant to the University of Melbourne, a school with its own Australian rules football club/team playing in the Victorian Football Association (VFA), Metropolitan Junior Football Association (MJFA which later

⁴⁶² Fagan, *The Rugby Rebellion: The Divide of League and Union*.

⁴⁶³ Revsine, *Opening Kickoff*.

became the Victorian Amateur Football Association or VAFA), and VFL; he then moved to the United States, where he was instantly snapped up to play despite his eligibility issues. The nature of these quick and positive transactions must have been both a shock and refreshing for 24-year-old O'Dea, who enrolled at Wisconsin as a law student.

In all fairness to the University of Melbourne, they were not playing in any of the above leagues from the years 1889 to 1891, but only some of that period coincided with O'Dea trying to get in. In reality, the professional culture of baseball in America did have an impact on the amateur university competitions because money was still being earned by these establishments even if their players could only hope for in-kind, and usually under-the-table, favors or payments.⁴⁶⁴ However, this was simply not the same amateur culture in the United States. In defense of O'Dea's behavior at the time, and his collegiate career afterwards, it is still hard to blame the man for emulating the culture he entered when he moved from Australia to America. His skills were appreciated in a way that made him a star in a market with earnings and gate receipts greater than back at home. Though shamateurism was common in both American college football and Australian sport, the opportunity to crack a much larger market with greater benefits was and still is enticing to many.

What is important to realize is that contemporary rules of eligibility were not in place and, where they were, they were usually ignored due to fractionalization among college teams, conferences, and different parts of the country. Though this would be an issue down the line, it was not at the time. As Revsine pointed out, Amos Alonzo Stagg at Chicago was at war with the other western schools not just in regards to gate receipts and earnings but for hegemony of the region. This siege mentality, with a lack of genuine enforcement of any and

⁴⁶⁴ "Melbourne University | Boyles Football Photos."

all rules both on and off the field, meant that universities were self-enforcing and, as a result, able to ignore laws they found not to be in their favor.⁴⁶⁵

Wisconsin was willing to turn a blind eye to the rules when it came to O'Dea's presence as a member of the team in light of the hostility toward Stagg's Chicago side. To be fair, the "rules" were always being negotiated and renegotiated to an extent that, in practice, they were more ideals and recommendations. Those on the outside, and even some on the inside, such as Wisconsin's president, wanted to ensure that there was at least a veneer of authenticity. As a result, O'Dea was finally considered ineligible until he had been enrolled and lived locally near the school for at least one year. It made no difference since, by the time this decision was made, a year had already elapsed, thereby making O'Dea eligible, so with no retroactive, punitive forms of punishment or penalty on the horizon, business continued as usual.

Firstly, O'Dea's journey to the United States, where he lived out the remainder of his life, began in 1895, around three decades before Edward "Carji" Greeves would temporarily move to Los Angeles to coach and play for the Trojans of the University of Southern California in the years 1928-1929 (see attached photos).^{466 467} Despite all accounts, which only list Greeves as a coach, the Geelong Football Club in fact features three photographs of him suited up and playing for the Trojans in the Los Angeles Memorial Coliseum. However, unlike Greeves, O'Dea was not contacted, nor contracted, by any football team to join their ranks. Rather, he joined out of impulse where he would leave Australia's east coast for Vancouver before staying the next four years at the University of Wisconsin in Madison; later in life, he would live out his days in various parts of California on the US west coast.

⁴⁶⁵ Revsine, *The Opening Kickoff*, 2014.

⁴⁶⁶ Austin, "Greeves, Edward Goderich (Carji) (1903–1963)."

⁴⁶⁷ "Three Images of Carji Greeves (Formerly Melbourne Football Club and Geelong Football Club VFL) Playing at USC in 1928-1929 American Gridiron Football."

Not having any partner with ties to the United States was the case for Edward “Carji” Greeves, the first winner of the Brownlow Medal, for whom the Geelong Football Club’s best and fairest is named after. The University of Southern California made room for Greeves in the coaching staff as they had been suffering from a late start into American gridiron football as a result of many California schools opting for rugby instead due to the high death rates in football in 1906. As a result, universities sought new ideas by looking towards other codes, leagues and organizations such as the VFL⁴⁶⁸, rugby union, and rugby league; the universities were looking outward for anyone who could help them. In their quest to win, the University of Southern California found Carji, who could better the Trojans’ kicking game as a coach beginning in 1929, around six years after the school committed to the gridiron game. Though there are many articles about him coaching at the university, it has proven difficult to find any discussing his playing for the Trojans.⁴⁶⁹ Not finding a written record of Greeves’ playing for USC is strange because Geelong Football Club’s historian, Col Hutchinson, has photographs of Greeves playing at the Los Angeles Memorial Coliseum, where he is suited up with the pads and leatherhead helmets commonly used in that era.^{470 471} As per the article’s title in the Coronado Eagle, very little has changed since the paper called him a “Star Rugby Coach” despite him being an Australian Rules player

But Carji was only at the University of Southern California, and in the United States, for the one season and then returned home, arguably influenced and definitely more knowledgeable about the American game, but still certainly less Americanized, if at all, compared to the likes of O’Dea and the other athletes who decided to stay. History has a funny way of repeating itself, and the USC Trojans are no exception given former Richmond

⁴⁶⁸ VFL, 'Minutes', 1903-1908.

⁴⁶⁹ “Southern California to Have Star Rugby Coach.”

⁴⁷⁰ “Three Images of Carji Greeves (Formerly Melbourne Football Club and Geelong Football Club VFL) Playing at USC in 1928-1929 American Gridiron Football.”

⁴⁷¹ “Southern California to Have Star Rugby Coach.”

Tigers AFL footballer Ben Griffiths and other Australians recently playing for Southern California.⁴⁷²

The life of an Australian football player in pre-VFL Victoria was very different than after, and even more so when compared to off-the-field American football politics. The competition between the VFA and the VFL arguably drove the VFL to professionalize more quickly than it otherwise may have, and the opportunity to earn more money, which led O'Dea to leave Melbourne for Essendon, likely would have been a further encouragement, even with it being shamateur payment, for him to stay in Australia at least a bit longer.

It is important to look at both the pre- and post-split year of 1896 in Australian rules simply because O'Dea left a year before and, as a result, would have lived a different life under different rules than those that came following the divide. Mobility between college teams and the flexibility of rules did exist prior to his departure. He was a country boy, so playing for Melbourne was likely a result of relocating to the city of Melbourne, and it is likely he lived near to the city's bustle. Division lines for player eligibility as seen up until the introduction of the draft were definitely blurrier in origin, as explained previously in O'Dea's case of 'waiting a year', but there was still an emphasis of coming up through the ranks and making first grade within the boundaries of your local club's territory. However, it is unlikely that he was bucking the system since his next move was to Essendon.

O'Dea left Australia a season before the VFL split from the VFA, so he was never exposed to the level of hostility and club espionage while at home. For context, the major competition of Australian rules was the Victorian Football Association. In 1896, 11 of these clubs left to form their own competition known as the Victorian Football League, which later became the Australian Football League in 1990. Both clubs that Pat O'Dea played for were among those 11. Even today, there remains dispute over whether or not the records that

⁴⁷² Nine News Australia, "(1) Nine News Australia on Twitter."

occurred prior to the VFL split should or should not be included in the official statistics because the outright fight between the leagues, which played the same sport, was so intense for so long.⁴⁷³ If he had left even a year later, it is fair to say that the vicious culture of the college teams of the west would have been more familiar to him, but, because of when he moved to America, he found himself experiencing entirely new management concepts in a new country, values associated with being uniquely American. At the very least, what America was doing at this time in the collegiate system was cutting edge in the way amateur ideals were espoused to players as the “gentlemanly” way to be, while at the same time universities were setting up to make a fortune from what is now a multibillion-dollar empire that rivals the NFL in earnings.⁴⁷⁴

The next step in O’Dea’s career was establishing himself first as the greatest punter and kicker for Wisconsin, then a kicker of renown in the group of “Western” football teams, and eventually the entire country. For all intents and purposes, “western” America has traditionally not started at the east/west geographic center of the country but rather somewhere around 40% of the way to the Pacific Ocean from the east coast. As an abnormality, Wisconsin actually uses the Mississippi River as its western border with Minnesota, thereby making it entirely east of the Mississippi. However, Madison and the rest of the state were so far removed from the industrial east coast, and were so far north of the Iron Belt, that it was still considered to be part of the American west. Being part of this western competition was not necessarily beneficial since New England Ivy League and mid-Atlantic universities were the masters of their own and gridiron’s destiny in that their football administrators controlled the game, something that the godfather of the game, Yale’s Walter Camp, was happy to perpetuate given all players selected for his All-American team

⁴⁷³ Carter, *Football’s Forgotten Years*.

⁴⁷⁴ “NCAA Football Teams Made More Money Than Many NFL Teams in 2015 [INFOGRAPHIC] | uCribs.”

exclusively included those two regions, including during the 1890s when O’Dea was on the field.⁴⁷⁵

O’Dea and the Great Rapprochement

With this in mind, O’Dea was constantly given special attention not only due to his unique skills but also because of the exoticism of his being Australian in what his brother Andy described as the Middle-American city of Madison, Wisconsin, of which he said: “Well this is a good place.”⁴⁷⁶ ⁴⁷⁷ This integration is explored further in Moore’s work on Australians and American institutions (see p. 190). Thanks to modern popular culture, contemporary Australians receive a certain amount of attention thanks to figures like Paul Hogan’s *Crocodile Dundee*. How even more shocking it would have been to have not just one but *two* Australian brothers in the small university town of Madison, Wisconsin, back in 1896. As reported by The Gilder Lehrman Institute of American History, the United States’ census of 1900 recorded only 7,041 Australian-born individuals amongst the 10.4 million foreign born people in America out of the total population of 76.3 million.⁴⁷⁸ This amongst the foreign-born population being roughly 14% of the total but Australia’s numbers are quite small, even insignificant, when compared to other nations such as England with 843,491, Wales with 93,744, Scotland with 234,699, and Ireland with 1,619,469. Canada even had fewer than Ireland despite being northern neighbors of the United States with 1,183,225 but this demonstrates the amount of opportunity offered by the United States from the perspective of international, English-speaking individuals. Moreover, the entirety of Pacific Islands came in at 2,659, which is quite significant based on their smaller population than

⁴⁷⁵ Camp and Deland, *American Football*.

⁴⁷⁶ Revsine, *The Opening Kickoff*, 2014.

⁴⁷⁷ Ryan, “O’Dea Devoted to U.W.,” April 5, 1962.

⁴⁷⁸ Gilder Lehrman Institute of American History, “Map of the Foreign-Born Population of the United States, 1900 | Gilder Lehrman Institute of American History.”

Australia yet in similar geographic proximity. Though notably closer in geography, the West Indies with a lower GDP still provided double the number than Australians at 14,468. It is almost comical that the number of people “born at sea” was still more than Australians at 8,310. We can clearly see that the English-speaking nations were also making meaningful migrations for opportunity in the United States and that it was not just those of continental Europe and East Asian nations.⁴⁷⁹

What is important to realize about the American zeitgeist and attitude towards the British Empire at the end of the 19th century was that it coincided with the Great Rapprochement prior to Theodore Roosevelt becoming president. This was a period distinctly noted for the British Crown attempting to assuage over 100 years of American Anglophobia. This occurred in multiple ways, such as even President Roosevelt publicly proclaiming that he is not English-American but just American.⁴⁸⁰ But there was also an additional unintended way in which Americans began to become more exposed to their English-speaking counterparts in their former motherland. English rugby football had just gone through its own civil war over amateurism. Tony Collins has written and lectured at length regarding how the Muscular Christianity movement was used as a tool for social control in England prior to, but especially after, Association Rules allowed professionalism.⁴⁸¹ Simply put, the blue bloods already found it unsavory to have to meet the blue-collared on the pitch, but this shift in the FA meant these financially and socially elites were now being beaten on the pitch. Rugby union’s English administrators, therefore, heavily enforced even stricter amateur status and rules, but they were not the only ones. In light of the Great Rapprochement, the O’Dea brothers, as Australians, were likely not viewed

⁴⁷⁹ Gilder Lehrman Institute of American History.

⁴⁸⁰ Myers, “Dissolving Tensions: Rapprochement and Resolution in British-American-Canadian Relations in the Treaty of Washington Era, 1865–1914.”

⁴⁸¹ Collins, *Rugby League in Twentieth Century Britain*; Collins, *Rugby’s Great Split*.

nearly as harshly as the English, and probably with a bigger sense of exotica and novelty as a result of being from so far away, despite Australia also being a part of the former British Empire. As a result, O'Dea was able to easily integrate into Wisconsin life despite his quite foreign accent because of his talents and contributions to university athletics.

This ease of integration was further aided by the shared language and racial background between Australians and Americans, which allowed Australians to assimilate into American life far more easily than other immigrant groups. As Moore notes, these factors meant Australians were rarely subjected to the same xenophobic barriers that other foreign athletes faced, making their transition into American institutions far smoother. Notably, there is a bit of a dearth of information and research on high profile Australians in American, especially in the arena of sports as far as academic research is concerned for this period.⁴⁸² Nonetheless, there is plenty of yellow and other journalism about others such as Dame Nellie Melba of which some also referenced O'Dea.⁴⁸³

Even to be paid as a coach or a trainer in English culture was seen as unsavory. This view of payment was not limited to England but extended to the farthest reaches of the empire in Australia and New Zealand. On the other hand, even in the "ivory towers" of American east coast elitism, the home of American Muscular Christianity in football and sport, subjects of the British Empire were being brought over to coach as early as the mid-to-late-1800s. Though Andy and Pat O'Dea didn't play or coach at these Ivy League universities, Wisconsin and many other schools followed suit in their quest for football and other sporting/athletic competition. Andy had been both boxing and rowing instructor/coach but stuck predominantly to coaching when he was picked up by the University of Wisconsin.

⁴⁸² Moore, *Australians in America, 1876-1976*.

⁴⁸³ St. Paul Globe Writers, "Melba and Pat O'Dea."

Schools like Harvard also opened the door for Australians, not just British subjects, to apply their skills in ways forbidden or, at best, frowned upon in their motherlands.

To put things in perspective, even as late as the 1950s, two-time Australian gold medal-winning swimmer David Frederick Hawkins decided against applying to the University of Sydney because “he would have needed to take a Teacher’s Scholarship to attend,” and this would have bound him to teach wherever the N.S.W. Education Department sent him after graduation.⁴⁸⁴ Hawkins competed in the Auckland Empire Games of 1950, Helsinki Olympics in 1952, and Empire Games of 1954 in Vancouver.⁴⁸⁵ Yet, over in the United States, Yale University, Harvard University, and the University of Michigan were all in essentially a bidding war to get Hawkins to come there. Actually, this bidding war wasn’t even for him to coach swimming but rather to earn his degree in education. Harvard eventually won, and Hawkins was awarded a very healthy scholarship for his troubles.⁴⁸⁶

Pat O’Dea was a nobody, as far as the University of Wisconsin was concerned, until the football coach, Phil King, saw his raw talent and, through molding plus raw talent, made him into a somebody.⁴⁸⁷ Similar to today, it is very difficult to settle into a new city, let alone a new country, without a company to bring you over or family to help get you started. O’Dea showed up, and had his brother Andy’s support, but he was never “invited” to work anywhere.

Compare that with contemporaries like the New South Wales fisherman-turned-Harvard rowing head coach James Wray from 1904 to 1915, or the Sydney-born Harvard boxing coach Stephen O’Donnell (1898 to 1917), who had Irish heritage. The latter was

⁴⁸⁴ Haig, “eIntroduction for David Haig and Spencer Kassimir - Spencer.Kassimir@gmail.Com - Gmail,” August 13, 2019.

⁴⁸⁵ Haig.

⁴⁸⁶ Haig.

⁴⁸⁷ Montana Standard Anonymous Writer, “Modern Punters Were Dubs Compared to Old Pat O’Dea.”

actually said to have been appointed due to having previously sparred with the soon-to-be-president, Roosevelt.⁴⁸⁸ To many Americans, the “Catholic” invasion was truly worrisome, and the Irish were not exempt even in the safe havens of cities like Boston and New York.

But America and these aforementioned universities undertook amateurism differently from those across the pond in the sense that the concept of coaches being paid was not frowned upon. Even social issues were overlooked, as per the preceding, and all for the greater goal and desire to win. To illustrate the point, in an 1896 article in *The Athletic News*, wherein was described the difference and inferiority of the American rowing technique compared to that of the English, one of the paper’s writers separately bemoaned how “football professionals have become the subject of barter.”⁴⁸⁹

O’Dea may have been rejected three times by the University of Melbourne, but his sporting success and eventual completion of a law degree in the United States demonstrates more than just personal resilience. Contemporary accounts suggest that he was neither unintelligent nor incapable of adapting to academic life. Rather, his trajectory reflects a broader institutional and cultural divide: where Melbourne saw no academic fit, Wisconsin recognized his broader potential. Unlike Australian universities, which placed little emphasis on extracurricular success at the time, American institutions, particularly those in the Midwest and the Ivy League, were increasingly shaped by the ideal of the scholar-athlete. In Australia, social status remained more closely tied to one’s high school than to their university, while in the United States, the opposite was becoming true. O’Dea’s transnational experience thus highlights how differing educational values could shape, restrict, or unlock an individual’s path.

⁴⁸⁸ Haig, “eIntroduction for David Haig and Spencer Kassimir - Spencer.Kassimir@gmail.Com - Gmail,” August 13, 2019.

⁴⁸⁹ “The Athletic News, Monday, July 27, Laihi | Athletic News | Monday 27 July 1896 | British Newspaper Archive.”

Very little has changed over the past 125 years. As observed, Pat O'Dea was always highly motivated, and a bit of a storyteller who loved the limelight, but he was a culturally better fit for a country that would take into account who he was in a more holistic view. As an example, he failed to be accepted for law school in Melbourne since, then as now, the Australian university system tends to look exclusively at your applicable skill set whereas the American higher education system does look at extracurricular activities. O'Dea may not have possessed the greatest legal strengths to indicate a top admission into university, but his other skills and merits were taken into account at Wisconsin. America was the better fit for him, and we will see the many ways he was able to thrive, but also how he became subject to the greater risks and trappings of such a culture. Because American universities were and still are more interested in the student candidate as whole person that the university can promote and benefit from in financial ways as it pertains to sports and other accolades not just limited to academics and publishing, the commercial value of the individual is also viewed as important for admissions they are by commodifying the prospective student.

With this in mind, there is a certain comical element to examining the 1906 eligibility changes, as well as those attempted in 1896 against O'Dea; how those rules evolved since that time is also instructive. The 1906 rule changes were made to save the game from being banned and make it safer, at least in word. At the same time, the Harvard Graduates Magazine stated in June 1906 that, "the main purpose of these rules is to limit participation in intercollegiate sports to undergraduates in regular academic standing and to shut out the men who come to college solely to engage in athletics."⁴⁹⁰ In recent years, when, barring fewer and fewer exceptions, the only way to the NFL is through the NCAA, the fact that universities still cling to this unenforceable concept, under the guise of being educational institutions, is simply farcical.

⁴⁹⁰ "The Overseers Permit Football."

1896 was a year of firsts in American collegiate football. It was Pat O'Dea's first season and, as will be discussed further, a year where many formative laws would be created and implemented in helping shape the game to what it became. It was also the first year that the competition would be named the Intercollegiate Conference of Faculty Representatives, which would later become known as the Big Ten. As Revsine writes, it was also a time when eligibility laws from the 1880s were more strictly enforced. "There had been some attempts at legislation in the early 1880s, with movements both to limit the number of years in which a player could participate and to ban professional athletes from intercollegiate contests. The enforcement was left to individual schools, whose teams were essentially run by students and graduates. Not surprisingly, many of them chose simply to ignore the rules."⁴⁹¹ ⁴⁹² There had been controversies arising out of players being "too old" to be an undergraduate, or that they stayed on to do graduate school simply to keep playing football. Doing so was seen as extremely against the principles of playing sport as a way of personal betterment and complementing one's education since it was clear that these decisions were being made to win a game and not for the betterment and maturing of the American man. As Revsine quoted the Princeton football team's captain, Edgar Allen Poe, "we do not deny that the reason of his returning for a post-graduate course is to play football."⁴⁹³ As a note, this E.A. Poe was not the famous author but his second cousin twice removed. Who this Poe was referring to was a man by the name of Elwood Wagenhurst, who, aside from being 26 years old, had graduated the year before, already had been paid to play baseball, and coached for Penn, while trying to play football for Princeton.⁴⁹⁴

⁴⁹¹ Revsine, *The Opening Kickoff*, 2014.

⁴⁹² Oriard, *Reading Football: How the Popular Press Created an American Spectacle*.

⁴⁹³ Presbrey and Moffatt, *Athletics at Princeton: A History*.

⁴⁹⁴ Presbrey and Moffatt.

O'Dea was subject to these same rules, but it is clear that he saw how, in American culture, the rules were often just a starting point for negotiation, especially if the player was valuable. This stood in contrast to the stricter and more socially constrained football culture of Melbourne, Australia. The University team in the VFL folded in 1914, partly due to the outbreak of World War I, but also because of institutional restrictions that other professional clubs did not face. Australian universities, like their American counterparts, held tightly to amateur ideals, but enforcement was more rigid. The rules, both in terms of player eligibility and gameplay, were to be followed with less room for interpretation or leniency. This disparity extended for many decades prior and, in many ways, still applies today though, as noted, the universities do field local, amateur teams still.⁴⁹⁵

O'Dea had to navigate these amateur expectations carefully to maintain his eligibility in the U.S., yet as Michael Oriard and others have noted, enforcement of these rules was inconsistent. Privileged American athletes, particularly at prestigious universities, often benefited from unwritten exceptions. This was not unlike the British Commonwealth, where similar double standards applied, not strictly along racial lines in this case, but along class lines. As discussed in the previous chapter, the split between rugby union and rugby league in England was deeply informed by socioeconomic division: working-class players were expected to remain amateur while upper-class players enjoyed institutional latitude and post-career advantages.⁴⁹⁶

This is why, when the game of rugby league arrived in 1908, 12 years after its first season in England, Australia received it as a package deal, with new rules that had not existed predominantly until 1906,⁴⁹⁷ and giving athletes the ability to earn money for their hard work and dedication on the field. New South Wales, and Australia more generally, being so

⁴⁹⁵ Cordner et al., *Black & Blue: The Story of Football at the University of Melbourne*.

⁴⁹⁶ Collins, *Rugby League in Twentieth Century Britain*.

⁴⁹⁷ Fagan, *The Rugby Rebellion: The Divide of League and Union*.

heavily defined as a prison colony for so long, would forge its own path and gravitate towards the “professional” form of the game on the northeastern side of the Barassi Line.⁴⁹⁸ Where Pat O’Dea was from, Australian Rules had more segregation of payment or amateurism in their clubs, but everyone played the same sport. It was likely why he moved from Melbourne Football Club, which, as Tony Collins has said, fought very hard against professionalism in sport⁴⁹⁹, to Essendon Football Club, which was more than happy to pay for his services.⁵⁰⁰

Wisconsin was not going to be paying O’Dea for his services, but they were more than happy to, as Michael Oriard wrote, ignore the rules, as many other college teams of the time would do.⁵⁰¹ With the help of his coach Phil King, and his huge talent for kicking, O’Dea would fight, calculate and/or wait out a decision to be made regarding his eligibility. So slowly did the ad hoc judiciary of college football move that, by the time they tried to enforce a minimum amount of time at a university in order to be eligible, O’Dea had already become eligible after his first season in 1896, while still playing and/or waiting for an injury from the previous season to heal.⁵⁰² This rule was loosely known as the “six-month residence rule,”⁵⁰³ which required transfer students to be a resident of the local area of a university to prevent an athlete from becoming a proverbial “ronin” or mercenary.⁵⁰⁴ Moreover, though the universities of Chicago, Michigan and Northwestern already had rejected this rule, Wisconsin was still on the fence.⁵⁰⁵ ⁵⁰⁶ Caspar Whitney would tout the greater gentlemanly spirit of the

⁴⁹⁸ Marshall, “Where Do Rugby Codes’ Strongholds Turn to Rules?”

⁴⁹⁹ Collins, “64. Football Firsts... the Last Thing We Need?”

⁵⁰⁰ Pennings, Call with Mark Pennings - talked about Pat O’Dea and the reason he switched from Melbourne FC to Essendon FC.

⁵⁰¹ Oriard, *Reading Football: How the Popular Press Created an American Spectacle*.

⁵⁰² Daily Cardinal Writer, “O’Dea’s Arm Broken.”

⁵⁰³ Daily Cardinal Writer, “To Retain the Rule.”

⁵⁰⁴ Daily Cardinal Writer, “Rules in Suspense.”

⁵⁰⁵ Daily Cardinal Writer.

⁵⁰⁶ Daily Cardinal Writer, “To Retain the Rule.”

university, until it conveniently decided that it would not make any decisions until January, which was after the football season had ended.⁵⁰⁷ Whitney then changed his mind and lambasted the other universities' leaders for their lack of character in defending the amateur spirit of the game.⁵⁰⁸ O'Dea was the impetus behind the decision to delay and, as a result, he received all the preferential treatment because of his big boot, while getting a first-class law school education in the classroom, and he later witnessed how it was applied in practice.

The law is only as strong as it is respected and can be enforced and, additionally, requires a strong definition. Amateurism lacked this. In England, providing a player time lost from work was considered professionalism. Today, finding someone a job in exchange for playing for a team/club would be a form of subsidized amateurism due to the fact that, from today's point of view, no money is being truly earned in excess of what one would have naturally earned at one's vocation. As Whitney stated, "Semi-professionalism is a paradoxical and a meaningless term."⁵⁰⁹ Also: "There are no degrees of amateurism."⁵¹⁰ However, with a clear lack of agreement on the differences between what amateurism and professionalism are, the universities would squabble ad nauseam as players would either be permitted to play despite the law or be banned on a one-off basis.

Rugby and Muscular Christianity

It is hard to say whether or not Caspar Whitney had a complete understanding of the origins of Muscular Christianity as a tool to maintain the social order in favor of those already in power. His adherence to his ideals of amateurism were very strict and well beyond that of even English rugby union, which, as mentioned, was willing to look the other way to

⁵⁰⁷ Whitney, "Caspar Whitney Commends."

⁵⁰⁸ Whitney, "Caspar Whitney, Amateur Sport."

⁵⁰⁹ Caspar Whitney, "Caspar Whiteney Commends."

⁵¹⁰ Whitney.

allow the false pretense of amateurism in other nations outside of their jurisdiction at times, so long as social order was maintained at home. His statement on semi-professionalism being a paradox does demonstrate his unwillingness to see genuine shades of grey. Today, being paid for what was known as “broken time” in order to play a sport would certainly not be considered professionalism since the term itself evokes the understanding that an individual can support oneself off of the money earned from playing a sport.

Fortunately, for Pat O’Dea, Whitney and his contemporaries crying foul went largely ignored. Revsine said it best in that, “Though nobody had the time or resources to investigate it, O’Dea might also have been ineligible as a result of his participation in Australian Rules Football. While he was technically an amateur, the world of Australian Rules in the 1890s operated much like American college football, with teams/clubs and wealthy patrons often finding ways to make under-the-table payments to top players. The Chicago rules banned anyone who had ever made money for their participation in athletics.”⁵¹¹ What he doesn’t mention is that clubs like Essendon were fairly open about player incentives/payments whereas those such as Melbourne Football Club were genuinely more aligned with the rugby union mentality: All benefits are not cash as far as they cared to acknowledge publicly.⁵¹²

Conclusion

In 1895, America was at a changing point again. Professionalization in sport was already present, but now at-will employment would become the new force of the American workplace. Pat O’Dea arrived for the law change, and he would be present as it continued to change the business and social landscape of America. In his new country he directly partook in the culture as part of his greater departure from Australian culture, while embracing the

⁵¹¹ Revsine, *The Opening Kickoff*, 2014.

⁵¹² Pennings, *Origins of Australian Football*, 2016.

American paradigm. His status as a trailblazer is secure, and examining his story, at home in Australia and in his adopted land of the United States, provides “the bridge” between the two nations as their respective sporting codes evolved into the 20th century and beyond.

O’Dea’s story is extremely unique for many reasons in part because he stayed in America despite all of his troubles. In many ways, O’Dea blazed the trail for others to pursue the all-American dreams of wealth and success. Therefore, it is important to ask how did O’Dea become Americanized, and what steps along the way led to this transformation from his humble roots in Kilmore, Victoria, to American sports star? And would things have turned out differently had he not run afoul of US law?

O’Dea was indicted by a grand jury in San Francisco for embezzlement of around \$50,000. It can be deduced, the “golden boy” status of American athletes, beginning with an academic system that allows for grades/marks to be lower if there are other exceptional talents an individual possesses, i.e., sports mastery, is the reason O’Dea flew so high and then fell so low. Unfortunately, federal law keeps grand jury notes entirely confidential, and the case seems not to have been pursued further. However, whatever its conclusions, it was enough to send O’Dea into hiding for nearly 15 years.⁵¹³

Clearly, choosing to come home to Australia does not mean that the person was any more or less Americanized, but it does paint a very different picture, as with the cases of Ben Graham and Sav Rocca, and of Darren Bennett and Mat McBriar.^{514 515} Then there is Nathan Chapman, who returned to Australia but continued to go back to the United States for dealings with his business, Prokick Australia, in which he trains young Australian talent to make both the on-field and cultural leap into American sports and society.⁵¹⁶

⁵¹³ 5 U.S.C. 552(b)(3) - Grand Juries.

⁵¹⁴ Kassimir, “Chat and Business Interview with Ben Graham.”

⁵¹⁵ James, *An Aussie Takes a Punt*.

⁵¹⁶ Kassimir, “Chat and Business Interview with AFL/NFL’s Nathan Chapman, Founder of Prokick Australia.”

It is important to note, however, that O'Dea specialist Revsine, himself a well-known American football anchor and television commentator, made clear that he feels O'Dea would have ended up this way even had he stayed in Australia.⁵¹⁷ It is likely that one would have a different conclusion where O'Dea may not have ended up the same way should he have not come to the United States.⁵¹⁸ Based on this understanding, it is clear, that Pat O'Dea truly did embrace his new home and embrace the American privileged culture, for both its best and worst qualities.

Today, players are no longer just making a big name for themselves in the AFL and going straight to the NFL, as was the case with many before. Earlier examples include Sav Rocca and Ben Graham, but the athlete who was arguably the first to do so in the manner of Pat O'Dea would most likely be Mat McBriar.⁵¹⁹ McBriar's journey was more similar to O'Dea's than Rocca's and Graham's because he was not a household name in Australia. McBriar's odyssey across the pacific took him from Victoria and, under the tutelage of figures such as Darren Bennett, he made the jump to university football at the University of Hawaii in 2000. He effectively got a boost due to his university path, and unlike O'Dea, his predecessor of 100 years prior, McBriar then made the jump to the NFL and became the Dallas Cowboys' greatest punter.⁵²⁰ When O'Dea played, there would be no NFL for another 20 years with Carji Greeves, but the course that was set out for Australians to be the big boot, and go through university, started with him in 1896.

O'Dea's story ultimately underscores the contrast between sporting celebrity in Australia and the United States, revealing how American sport has long rewarded its heroes with status and privilege, often shielding them from the same scrutiny applied to others. In

⁵¹⁷ Revsine, *The Opening Kickoff*, 2014.

⁵¹⁸ Revsine, *The Opening Kickoff*, 2014.

⁵¹⁹ James, *An Aussie Takes a Punt*.

⁵²⁰ James.

Australia, sporting figures tend to be public icons but are rarely placed on the same untouchable pedestal as their American counterparts. O'Dea's case also highlights the broader challenges faced by Australian immigrants to the U.S., particularly in their navigation of a society that operates under different cultural, legal, and economic expectations. His journey, rising through American football's university system, embracing its structures, and ultimately being consumed by its excesses, demonstrates how Australian athletes in the U.S. often undergo an implicit process of Americanization. This pattern has continued into the modern era, as seen with the likes of McBriar, Bennett, and Graham, whose paths reflect both the opportunities and transformations inherent in crossing from Australian sport into the American sphere. O'Dea's experience was foundational, illustrating both the potential for success and the perils of assimilation into a system that prioritizes athletic prowess but can just as quickly discard those who fall out of favor.

Chapter 6: Americanizing Pat O'Dea and the Changing Landscape of American Sport

This content of this chapter builds on the framework from the previous but instead discusses how Pat O'Dea's experiences prefigured the ongoing symbiosis of Australian and American football cultures and led to increasing player, coaching, and technical exchanges between the two nations.

Pat O'Dea's experience with Americanization is further explored, including a discussion of his life after relocating fully to the United States and a greater exploration of his post-playing career. The final chapter further discusses the gaps in the research, including how rugby codes influence the development of the gridiron of 'American football.' O'Dea being the "first" of Australian athletes to come to America set the stage for, at last, the completion of the symbiosis of Australian and American renditions of the game, with athletes now more than ever moving between the two nations.

The more recent development allowing amateur and college athletes to make money off of their likeness, while enrolled at university, will also be explained.

The notion of celebrity as it existed in a late-19th and early-20th century context will also be explored thanks to the earlier writings of Trumper (mentioned in Chapter 5). How this influenced both celebrity culture as well as Australian amateur sport celebrity status is also to be explored.

Introduction

With the American landscape changing and Pat O'Dea adapting to it, the rules on and off the field were shifting as well. The 1896 American gridiron rule changes still maintained the American gridiron's kicking game, something that would keep Pat O'Dea's Australian rules skills in high esteem, and he would be able to exploit new and more open field tactics not yet popularized. In this chapter, O'Dea's end of and post playing career will be analyzed

in its connection to Americanization in the capacities of legal (at-will employment), cultural, and celebrity. O'Dea is an example of early Americanization of the sport star as a commodity as well, which would not enter the English-speaking world until nearly a century later to this magnitude. He was not only a sport star but also a celebrity even showing up in yellow (tabloid) journalism whilst also being offered opportunities due to his star-power and cult of personality in ways that simply would not have occurred in Australia.

In this chapter, this research examines O'Dea's post-playing career and its significance in the broader context of Americanization, marking an early example of how an athlete could transition from a sporting star to a sport celebrity. His trajectory highlights how, in the United States, opportunities for footballers extended beyond their playing days, a contrast to much of the English-speaking world, where career pathways for athletes were far more limited. Understanding O'Dea's post-playing career is crucial to analyzing the long-term impact of Americanization, as it demonstrates how the commercialization of athletes did not end with their time on the field but instead became an enduring aspect of their public identity and influence. We are going to look at how the Americanization of Pat O'Dea is a template for what will happen in the late 20th century in Australia by looking at the individual athlete. Moreover, the United States being an early pioneer of this form of celebrity and journalism, Charles Leonard Ponce de Leon states that, "the expansion in coverage was inspired by recognition that sports was a circulation booster. One of the virtues of the sports page, editors in the 1890s soon discovered, was that it brought stories about many different sports together, making it easier to turn partisans of one sport into more general enthusiasts."⁵²¹ In this respect, the commercial values of selling more newspapers in the 1890s motivated this greater focus but we will also see how, in America, the desire for greater ticket sales and then television contracts would motivate sport to both change its rules from what is interesting

⁵²¹ Charles Leonard Ponce de Leon, *Self-Exposure*.

from a footballer's point of view to a fans point of view as the change from sport to sports entertainment continued. This also included the move away from the concept of "there is no "I" in "team" to promoting and pedestalizing a sports biggest name athletes, which is what we is observed in the case of O'Dea as the "Kangaroo Kicker."

Because Australian rules football was at this time, and still is, very focused on the punt style kick as a core of its game, it allowed for O'Dea's skills to transfer over quite nicely. Unlike when he played Australian rules where most of the kicking of all types are done on the run, but for place kicks that were taken off of a patch of dirt, the start-stop nature of the American gridiron allowed for more time to prepare and execute kicks with preparation and planning.

This made O'Dea a particularly dangerous threat since he could both punt and drop kick without the lack of active planning in the offense/ball carrying position when compared to Australia. There is not nearly as much literature on how Australian rules, rugby league, and/or rugby union impacted American sport when compared to how American sport has influenced the others but this is the case here. However, though his skills were far greater than many other Americans because of the above, these are not simply skills that could be transferred over to American athletes because his competency was as a result of playing another football code that demanded more off the boot, a sport that Americans would never play on any significant scale. Without playing Australian rules, football, the American kickers/punters would simply have to just work harder to compete with him. Then the rules changed in 1906 rendering so many of his skills much less important to a game with a forward pass. It is worth noting that in the 1920s, Edward "Carji" Greeves had a similar foray with the University of Southern California. His kicking skills also came from Australian rules football at a time that California was behind much of the country in the gridiron game because of their focus on rugby union. Like O'Dea, his great, needed skills

would not be needed not very long after his departure as the ball size and shape changed making it pointier and denser thereby making it more difficult to dropkick and punt with the former technique being replaced by a field goal that employs the use of a holder. Once again, the innovation also could not be impactful to Americans since the ball changed the game but also because it was, like O'Dea's, Greeves' skills from playing Australian rules football that made him excellent and not some special unused technique. As previously discussed, there is a clear understanding on how rugby league has and is impacted by Americanization. However, relatively little literature exists on how or if rugby codes, or Australian rules, influenced the gridiron after it had become a uniquely different code from its rugby school roots.

This chapter will continue Pat O'Dea's story after moving to the United States. However, the focus will be on the changing landscape football, America, and the culture at large rather than exclusively focusing on O'Dea's evolution and adopting of his perceived new American way of life. Moreover, it will also become apparent that O'Dea was tip of the spear in terms of Australians playing on the American gridiron. This is yet another example of Americanization for the purposes of cultural and celebrity purposes but the American influence of law and commercialism (the athlete as a commodity) also comes into play. As discussed, it is not simply just a linear process of American values being pushed on the world outside but others coming to America for opportunities that the country has to offer, usually not offered in one's home country, and adopting local cultural standards, social morays, and worldview.

The University and the Gridiron

Regardless of the restrictions that many had been attempting to impose on players in university-level football in 1896, many of the efforts were in vain, and were largely ignored. If they were not ignored, they were most certainly undermined and bypassed with cunning

from players, coaches and even a university's administrative faculty. Wisconsin's faculty finally decided, after the season was already over, that a six-month waiting period for new players to live in Madison was not nearly enough. Instead, they went for a whole year. This meant that O'Dea, who had already played a season, was ineligible; however, by the time the next season arrived, he would then be eligible, meaning he and the team had gotten away with what they needed with him missing no time on the field.⁵²² This style of delaying tactics had become standard practice.⁵²³ To clarify, delaying ensured O'Dea did not miss out on playing, and it also appeased those who wanted to keep things to the letter of eligibility.

O'Dea was officially in the clear to play football for the Badgers the next season. However, this was not the end of the restriction. The famous Carlisle Indian School had finally come to an agreement with the Chicago Press Association to play a game out west with one condition: that they would only play if it were a game against "the champions of the West."⁵²⁴ That meant that O'Dea was possibly going to witness a case of American compliance in a country that was, and in many ways still is, driven by self-regulation. Or he was going to see the allure of money coming to his university dictate that he would absolutely be playing this game at all costs. Meaning, the United States has a greater history and present of industry self-regulation not always complimented with the necessary enforcement to do so and, since money does motivate people, it can impact the level in which the stringency of enforcing self-regulation is applied. In this case, it was the latter as the financial benefit was strong enough to supersede policy. The game was scheduled for just a few weeks later, to be played on 19 December 1896.

⁵²² Daily Cardinal Writer, "New Athletic Rules."

⁵²³ University of Wisconsin Faculty, "Minutes of the University of Wisconsin: New Athletic Rules."

⁵²⁴ Zarley, "Tracing the Legend of 19th-Century Kicker Pat O'Dea."

O'Dea was now healthy and recovered from his arm injury the previous season, so the rules were yet again broken for a match that would once and for all prove that dollars matter most since there was so much more allure and ability to pack the stands with the Australian star on the field. There was an additional subtext: The Carlisle Indian School was an extremely dominant team. They were not the biggest or strongest but with "Pop" Warner at the helm, they had become a genuine force to be reckoned with. It was not just their dominance on the field but also their Native American identities. Lars Anderson best summed up the situation in that when Carlisle would play a school such as future president Dwight D. Eisenhower's Army, there remained a very visceral feeling of animosity among university teams in each direction.⁵²⁵ In the minds of many of those from the Carlisle school, it wasn't just that Army represented the Native Americans' stolen identity, land and their brutal history at the hands of the United States.⁵²⁶ This same animosity extended to most, if not all, of the universities they would go up against. There was a genuine anger towards each team and individual opponent they played. Each game was a fight to show that they could beat their oppressors, and their descendants, at their own game.^{527 528}

Though there are stark contrasts between the social issues affecting Americans of European descent and Native Americans, and those of Australians of European descent and Indigenous Australians, there is very little record surrounding O'Dea's thoughts or feelings on this momentous game. There appears to be nothing written from 1896 or soon after, nor has there been any mention of his thoughts in the century since the game. It is best not to speculate, however, it is important to acknowledge how First Nations Australians influenced

⁵²⁵ Anderson, *Carlisle vs. Army*.

⁵²⁶ Anderson.

⁵²⁷ "Carlisle vs Yale College University American Football Carlisle History Touchdown."

⁵²⁸ Anderson, *Carlisle vs. Army*.

Australian rules football, as well as the innovations by Native Americans in the American gridiron.

However, the biggest contrasts are that: 1) “Pop” Warner was Carlisle’s coach and strategist, whereas the style of play in sports like Indigenous Australians’ Marngrook very clearly influenced Victorian Rules. Pop Warner was important and pivotal to the evolution of the American gridiron because he, while working with the Carlisle athletes, innovated many new strategies that are still felt in today’s game, such as the single and double wing formations (forerunners of the shotgun formation, three-point stance, and screen play); 2) There is no discussion of American gridiron being a Native American game because it was, in fact, an extension of rugby union, unlike lacrosse, which clearly was connected to Native American war games; and 3) American sport was shaped by distinct institutional and cultural values, which differed markedly from Australian practices. While American universities, particularly in the early 20th century, adapted to the commercial potential of sport, Australian sporting institutions retained a stricter amateur ethos for longer, limiting athletes’ financial opportunities, especially within elite university settings. This divide was a defining feature of the transnational exchange of sporting ideas at the time.

In the end, just as they had defeated Army, a very worn-down and depleted Carlisle still handily beat Wisconsin 18-8. All of the hype about Wisconsin’s greatness, at that moment at least, proved to be just hype, but Carlisle in fact lived up to its legend. However, this is not to say that the players from Carlisle were not impressed with their opponents. O’Dea kicked a ball so high that it got stuck in the metal girders of the Chicago Coliseum.⁵²⁹ Revsine recounts a story recorded years later, as told by a person who was at the game, saying he recalled seeing the “Indians standing open-mouthed, waiting for the pigskin to return to

⁵²⁹ Daley, “The Customers Always Write.”

earth” while the crowd stood in “awe-stricken silence.”⁵³⁰ There had been a few other instances where O’Dea’s big boot impressed others, but to earn the admiration of the great Carlisle school’s football finest was truly unique. (Not even O’Dea’s narrowly missed 60-yard attempted drop goal would have been as memorable.) For all of the racism that plagued the world in the 1890s, the great Native American school was respected for vigorously succeeding at winning against the most notable teams in university football.

However, despite O’Dea’s success, the faculty at Wisconsin yet again decided he was ineligible based on the minimum time requirements; it would only be a few more months until he was back on the field the next season.⁵³¹

Pat O’Dea really was a phenomenal asset to the team. His kicking skills were of an importance far greater than even the best who came later to the United States to play because of the higher value of points for kicking drop-goals over touchdowns. The next time an Australian would come to the United States would not be until the 1920s with Edward “Carji” Greeves when drop-goals had lost vogue. O’Dea’s valuable kicking skills resulted from the rules being extremely different then versus now. David M. Nelson’s *The Anatomy of a Game: Football, the Rules, and the Men Who Made the Game* has served as a guide to many football historians in chronicling the evolution of the rules for college gridiron. Nelson explains how, without a forward pass, and, until 1896, a great number of points were awarded for a field goal even over a converted touchdown, O’Dea became the difference maker. In 1897, the value of a touchdown was four points and the conversion two, whereas the field goal had been reduced from six to five points. With rules of this point valuation, a team could still win entirely off the boot.⁵³² O’Dea was so good at scoring and converting

⁵³⁰ Revsine, *The Opening Kickoff*, 2014.

⁵³¹ University of Wisconsin Faculty, “University of Wisconsin Faculty Minutes: Pat O’Dea Eligibility/Adult Special.”

⁵³² Nelson, *The Anatomy of a Game*, 1995.

touchdowns that he was made captain of the team for the two following seasons. However, even such recognition does not give full justice to how important O'Dea was to the team.

The game at that time had been defined, and doggedly so, by something called mass momentum plays, wherein an entire team would essentially barge into the other team using the ball carrier more or less as a battering ram. For more details, it is worth examining pictures of play formations such as the “turtleback” and the flying wedge, which killed students every year.⁵³³ ⁵³⁴ There was no requirement for seven men on the line of scrimmage, yet, because of the nature of a three-down game, university teams were more apt to punt the ball away and try to retrieve it, as the laws of the time permitted. Today there is no longer an “on-side” position for people to attempt to get a ball back off of a punt. But this rule, and others like it, allowed O'Dea to shine.

In 1897, in front of a packed crowd of 6,000 people in Minneapolis, O'Dea and the Wisconsin Badgers played against the Minnesota Gophers. It was not enough that the Badgers were up 18-0 at the half, having scored three converted touchdowns, but before the halftime siren, O'Dea would do the first of two things that would put him into the book of legends. According to the (Milwaukee) *Sunday Sentinel* writer, he had kicked a 110-yard punt.⁵³⁵ By definition, this is a feat that can never be broken and a record that will forever stand. In 1897, the field was still 110 yards long, as opposed to today's 100-yard length.

Revsine has undertaken outstanding work to debunk this report and, by all accounts, he appears to be correct. Citing Dick Highland's reporting of an account told by Minnesota's trainer, Edward “Dad” Moulton, O'Dea both punted the 110 yards and even kicked a drop-goal while on the run from 40 yards out.⁵³⁶ The records confirm this, however, the *Sunday*

⁵³³ Nelson.

⁵³⁴ Miller, *The Big Scrum*.

⁵³⁵ Milwaukee Sunday Sentinel Writer, “O'Dea's Great Kick.”

⁵³⁶ Dick Hyland, “The Hyland Fling.”

Sentinel article was written in 1949, 52 years later. There are no contemporary articles that report O'Dea kicking this impressively. Moreover, Revsine points out a *Daily Cardinal* article from earlier that week stating that there would be a ground rule for this game. A ground rule is an exception to the rules based on the limitations of a particular ground. (Though associated with baseball today, this was also the case at the time for football in America.) This ground rule stated that the field was only 105 yards long, effectively shorter than O'Dea's kick.⁵³⁷ Revsine also notes that the legend was perpetuated by O'Dea himself, when he stated how, "There wasn't enough wind to rustle the maples that day," which was in an interview with the *San Francisco Chronicle* that was published a year after the game, in 1898.⁵³⁸ It is hard to tell whom to believe, but, even if the kick was only 105 yards, it was still a record that can never be eclipsed.

Michael Oriard also published a book just a few years after the great Delaware coach and author David M. Nelson passed away.^{539 540} Where Nelson painstakingly chronicled each law change in the college game, Oriard contextualized the off-field implications where he wrote how "the larger-than-life football hero lived in the popular imagination beyond conventional standards of vice and virtue. The hero-worship and contempt that football players continue to evoke today, the conflicts that routinely arise in college football between social, ethical, and moral and education values on one hand and popular heroism on the other, originated in football's narratives of the 1890s."⁵⁴¹ As previously mentioned, O'Dea was a minor public figure in Australia. He became a larger-than-life star in American by standing out on and off the field thanks to his conquests in kicking, and also being known as a good

⁵³⁷ Revsine, Call with Dave Revsine. Author of *The Opening Kickoff: The Tumultuous Birth of a Football Nation*.

⁵³⁸ Prescott Sullivan, "The Low Downs."

⁵³⁹ Nelson, *The Anatomy of a Game*, 1993.

⁵⁴⁰ Oriard, *Reading Football: How the Popular Press Created an American Spectacle*.

⁵⁴¹ Oriard.

drinker and ladies' man. In doing so, O'Dea became an at the time idol, which was not unheard of in America but not the norm in Australia to nearly the same extent. Moreover, unlike many Australians that became famous overseas, he was also well-known back in Australia though this was more due to the rumors of him dating Dame Nellie Melba rather than his gridiron football records. In adopting the American paradigm of adulated idol is just another way in which he can be seen as Americanizing and doing so as a transnational and transcontinental celebrity. He also took on the practice of being willing to transfer between clubs for the greatest business opportunity. Though in baseball, this was more normalized since it had been professional for some time and football was still viewed as a collegiate amateur sport. In this sense, he treated his celebrity status as a commodity with which he was able to bargain and negotiate better opportunities for himself. This sort of thinking being normalized would not occur in Australia for another hundred years or so.

As it is recorded, it was the allure of free booze/grog that motivated him to do what nobody else had ever done before. Coach Phil King, before the match against Northwestern in Chicago, was reported to have said, "Gentlemen, score in the first two minutes, and tonight, we'll celebrate with all the champagne you can drink."⁵⁴² The motivation certainly had an impact on O'Dea as he would make history thereafter. Revsine credits O'Dea's 62-yard drop goal records against Revsine's own family's alma mater, Northwestern, as the catalyst launching the legend about the man.⁵⁴³ He credits a university football program that listed the stats of records made for and against the university; the 1898 dropkick of 62 yards stood out. Unlike O'Dea's purported 110-yard punt, later exaggerated up to 117 yards in one paper, his dropkick may have been the most honest stat of his career because there is corroboration by many newspaper sources that the ball *did* in fact travel that

⁵⁴² Montana Standard Anonymous Writer, "Modern Punters Were Dubs Compared to Old Pat O'Dea."

⁵⁴³ Revsine, *The Opening Kickoff*, 2014.

far, maybe further⁵⁴⁴. It is interesting to note that the same 1934 paper that related the above champagne story also claimed that the earlier punt went the extra seven yards.^{545 546 547}

Clearly, as in Woolcock's 2014 article, this was written long *after* the events, but it is hard to fault time-strapped journalists for not being given the time to get the facts straight when so much fiction exists in recording humanity's past.⁵⁴⁸ That said, the 62 yards might have been under-recorded, not just by a few yards but also allegedly by 18, according to some sources close to the team. With time, the legend of how bad the weather was also got worse and worse.⁵⁴⁹

It was not long before Pat O'Dea would become the first Australian, and one of the first Western football players, on Walter Camp's All-American team.⁵⁵⁰ It is important to note that his "rival" from Chicago, Clarence Herschberger, also made the first team, whereas Allen Chubb Steckle and William Cunningham of Michigan, Walter Scott Kennedy of Chicago, and O'Dea were listed for the second team. Nonetheless, he was amongst the great talents of the west and proved himself to the "godfather of football."

This renown pushed O'Dea higher into the stratosphere of stardom. He was heavily insulated from the harsh reality most Americans had to endure on a daily basis. Revsine says it best:

O'Dea had his fair share of female admirers as well. After big games his mailbox was jammed with letters from flirtatious women. The Aussie did all he could to impress them. In the 1890s in Madison, nothing got a young coed's attention more than renting a private carriage for a trip around the small city, and O'Dea quickly developed a reputation as "one of the greatest hirers of carriages the town ever knew."⁵⁵¹

⁵⁴⁴ Montana Standard Anonymous Writer, "Modern Punters Were Dubs Compared to Old Pat O'Dea."

⁵⁴⁵ (Butte) Montana Standard Staff, "'Modern Punters Were Dubs Compared to Old Pat O'Dea.'"

⁵⁴⁶ Milwaukee Sunday Sentinel Writer, "O'Dea Kicks a 60-Yard Goal."

⁵⁴⁷ Chicago Times-Herald Staff, "O'Dea the Hero of the Field."

⁵⁴⁸ Woolcock, "The Forgotten Story of ... Patrick O'Dea."

⁵⁴⁹ Revsine, *The Opening Kickoff*, 2014.

⁵⁵⁰ Chicago Times-Herald Staff, "O'Dea the Hero of the Field."

⁵⁵¹ Revsine, *The Opening Kickoff*, 2014.

One of these women was none other than Helen “Nellie” Porter Mitchell, or, as she is better known, the singer Dame Nellie Melba. The reports regarding their alleged relationship come from articles that appear to be yellow journalism. However, there is no denying the two got together in Chicago and other cities. One of these articles suggested that, but for Melba’s insistence on O’Dea retiring from such a brutal game, and his insistence on continuing to play it, the two may have continued their relationship; what exactly their relationship was is another story.⁵⁵²

‘Paid’ Amateurism

O’Dea had been allowed a certain social leeway, including drinking and dating more than most people, and still more than his fellow footballers as a result of his celebrity status. It could be agreed his behavior could be justified as making up for the amateurism (i.e., being unpaid) within the sport. The rules changed in the middle of his career, thereby reducing the value of the field goal/dropkick to less than a converted touchdown. Yet he thrived and was, as mentioned, captain for his penultimate and final years at Wisconsin.

It is no surprise that O’Dea was allowed to benefit in this way, since, as discussed, baseball players were earning money beyond their wildest dreams, with even fewer restrictions on their behavior. The charming irreverence displayed by O’Dea and others like him was a form of non-financial remuneration, celebrity and social capital at a time when financial compensation was forbidden. He and others got away with behaviors like drinking and courting women, among other things, that would have led to trouble for others. While this was not to say that these behaviors were rare, as the rules were often ignored, the trend of

⁵⁵² St. Paul Globe Writers, “Melba and Pat O’Dea.”

amateur athletes enjoying such benefits continued for over 125 years, right up to the present day.

In 2019, California Governor Gavin Newsom announced his intention to allow for athletes in the state to earn money from their likeness, an action in direct opposition to the NCAA's 150 years of strict shamateurism.⁵⁵³ However, this likely would not have positively impacted O'Dea if he were competing today, as student visa status forbids work and would supersede state law.⁵⁵⁴ California's law, along with its benefits and repercussions, have since been adopted and earning money by collegiate athletes is governed by the "Name, Image, Likeness Rule (NIL), which has been adopted by most states.⁵⁵⁵ ⁵⁵⁶ O'Dea received his degree in law, having graduated from the university in 1900. Three rejections from Melbourne University were in the rearview, and the great rewards for gifted individuals in America had paid off for him, even despite his final game being dogged with poor reviews for kicking and punting when Wisconsin played its nemesis, Chicago.⁵⁵⁷

O'Dea's Post-Playing Career

However, post-playing life would be very different for Pat O'Dea. When he returned from the grueling game against Yale in his final season, he announced he would be retiring despite having another year of eligibility and that he was ready to complete his studies.⁵⁵⁸ It seemed as if he felt that there was no next step in the world of football, and in certain ways he remained tied to the Australian idea of sport as a hobby that provided opportunities but not a profession. The National Football League would not be founded for another 20 years and,

⁵⁵³ Murphy, "California to Allow NCAA Athletes to Make Money."

⁵⁵⁴ Wildes, "Shana Tova and CA's New Stance on Student Payment for International Student Athletes," October 6, 2019.

⁵⁵⁵ "What Is NIL?"

⁵⁵⁶ "Name, Image, Likeness."

⁵⁵⁷ Chicago Daily Tribune Staff Writer, "Opinions of the Chicago Players."

⁵⁵⁸ Milwaukee Sunday Sentinel Writer, "Pat O'Dea to Retire."

even in the Americanized lifestyle and worldview O'Dea had adopted, the NFL's professional league predecessors were extremely risky businesses financially, just as the NFL was in its early days. The NFL predecessors were all financial failures, and many of the early NFL teams do not exist anymore, relocated and/or rebranded.⁵⁵⁹ Nonetheless, there was no place for any "respectable" person in the United States with professional business aspirations to continue their adult lives playing games that originally were intended for school-aged and university students. Dave Revsine cites an article that was not intended to be comical, which mentioned that part of O'Dea's reason for stepping down was that he "had no time to call on girls."⁵⁶⁰ ⁵⁶¹

O'Dea, however, did have a genuine desire to coach and also practice law. Based on the above articles, along with others from the time, it is genuinely hard to determine exactly how O'Dea wanted to proceed with his life beyond his amateur-playing career. There had been talks that O'Dea would take over as coach at the University of Wisconsin in Madison, but that never materialized. He also openly stated a desire to return to Australia, but this did not happen either. Strangely enough, he had even stated a desire to fight against the Dutch-ancestry Boers and help the motherland of Great Britain stop them in their efforts to create an independent state in South Africa, but this did not come to pass either.⁵⁶² The coaching opportunity at Wisconsin kept coming up, but this was not meant to be either. Part of the suggested reason he ultimately decided against it was out of respect for Coach King, or even working as a kicking coach under his supervision, but there also seems to have been genuine motivation for O'Dea to move on to his next phase.

In fact, much of the press was so dogged with yellow journalism at the time that it would

⁵⁵⁹ Michael, *The Game Before the Money*.

⁵⁶⁰ Milwaukee Journal, "Capt. Pat O'Dea Talks about His Football Career and His Future."

⁵⁶¹ Revsine, *The Opening Kickoff*, 2014.

⁵⁶² Minneapolis Journal Staff Writer, "O'Dea Going to Africa."

be hard to distinguish fact from fiction. The credibility of these writers presents a difficulty here but also for sport research as a whole since the vast majority of history is recorded by the “popular” press. Rather than ignoring this sort of journalism, it requires cross-referencing and scrutiny.

The record surrounding Pat O’Dea is complicated, thanks to his outlandish actions, statements, and behavior. O’Dea is on record expressing a desire to return to Australia and fight in the Boer War, as well as his interest in coaching at Wisconsin, though he refrained out of respect for Coach King, the man who helped him rise to prominence. His actions suggest that while O’Dea had an ego, he also faced significant internal conflict, likely overwhelmed by the sheer number of potential directions his life could take. Raised in a society with more rigid expectations, O’Dea found himself at a crossroads, struggling with decisions that were unfamiliar and complex for someone from his background. This uncertainty was compounded by the unprecedented nature of his success in amateur sport. O’Dea was America’s first Australian, amateur international sports superstar, a position that came with its own set of challenges and pressures. His fame became a major product, and he embodied a cultural shift that was not widely seen in Australia until much later. O’Dea’s career in America illustrates how the U.S., even at the turn of the century, was ahead of the curve in adopting a celebrity culture that would later be recognized worldwide as part of Americanization. This contrasts with boxers like Young Griffio (Albert Griffiths), who competed in America between 1893 and 1904. While Griffio gained recognition in Australia first, his fame was eventually overshadowed by American-born boxers, even though he was highly talented. O’Dea, on the other hand, reached a level of fame beyond even American footballers, bringing his recognition to unparalleled heights.

Pat O’Dea’s experiences in the United States exemplify the long-term influence of Americanization on Australian sport, particularly in the elevation of athletes as marketable

figures and the increasing professionalization of player development. The emphasis on individual celebrity, lucrative salaries, and structured coaching systems, elements that O'Dea encountered in American football, would later become embedded in Australian sport. Over time, as Australian administrators and athletes looked to the United States for inspiration, the adoption of performance-based contracts, specialized training regimes, and media-driven sports culture reinforced the shift toward a more Americanized sporting model.

He first decided to take a coaching role at the then-little-known University of Notre Dame in South Bend, Indiana. This university is renowned for its football today, but back then it was not. O'Dea even insisted on the university enrolling Louis "Red" Salmon, despite that he was a waiter and not a student. O'Dea knew talent when he saw it, especially in the fullback position. It could be argued that his winning seasons at Notre Dame helped put the university on the right path by combining his skills for football with the Jesuit university's emphasis on education, a reputation it still holds.

However, the relationship between O'Dea and the university would not be for long as he was fired after just two seasons. As cited, O'Dea said he had every intention of outgrowing his football reputation to become a coach and even a sports professional, but he went back on those words too. While playing for a local professional team known as the South Bend Studebakers, O'Dea convinced his team to play against the university team he was also coaching. Salmon took on the Notre Dame coaching duties for the scrimmage, and, in a surprise to all, the university won the game by a convincing 22-6. It is genuinely difficult to understand why anyone would do something like this. Would it be to prove how well O'Dea coached the school's team, to even be able to beat himself (given his being aligned with both teams) playing on a professional club? As a result of the loss, the Studebakers were furious, especially when O'Dea blamed them for their own loss. Their assertion about O'Dea would seem to be in alignment with the above theory that he did things

for greater exposure and fame, even at the expense of others. The university was less than impressed and fired O'Dea. Salmon ended up taking over as head coach full-time, with a moderate 5-4 records.^{563 564}

Not to be deterred, O'Dea continued playing for the Studebakers but soon broke his shoulder.⁵⁶⁵ Doing so was the beginning of the end of the good times. An athlete at the pinnacle of his stardom falling is a horrible sight, but another way in which O'Dea's life fell to pieces was nothing less than cataclysmic: He was mugged in Chicago and left unconscious.⁵⁶⁶ He was then severely burned when, after asking for his bath to be drawn at a hotel, he failed to realize that it was filled only with scalding-hot water. His back and legs were burned, and his shoulder was still broken. He was admitted to the hospital, where people worried about his ability to recover from the burn to a large area of his body after slipping and falling in the blistering water. These events all happened in the course of a few weeks.

In 1902 O'Dea was hired to coach at the University of Missouri, but this endeavor too was short-lived. It was reported that this was due to a disagreement over his two-year contract, but one of his descendants, Wendy Bolz, has written in an unpublished manuscript that he was quietly fired for fixing the last game of the season against Kansas. Up until this point, O'Dea had always shown a willingness to bend the rules, and do what others were not permitted, even if it wasn't illegal.^{567 568 569}

⁵⁶³ Dick Hyland, "The Hyland Fling."

⁵⁶⁴ Juliano, *Notre Dame Odyssey*.

⁵⁶⁵ Chicago Daily Tribune Staff Writer, "Pat O'Dea Breaks Shoulder."

⁵⁶⁶ Racine Daily Journal Staff Writer, "Chicago Highwaymen Set Upon Pat O'Dea."

⁵⁶⁷ Bolz, "The 'Kicking Kangaroo' and the 'Kangaroo Stroker.'"

⁵⁶⁸ Allen, "Pat O'Dea Collection from David G Allen at Melbourne Cricket Club Library."

⁵⁶⁹ Allen, "Records of David G. Allen of the Melbourne Cricket Club Library Regarding Pat O'Dea. Also Has Records of Emails and Conversations with Michael D. Shutko and Wendy Bolz."

O'Dea next moved north to Kirksville to coach, arriving with his new wife, Agnes McConnell. Their 1903 wedding ceremony was said to have been rushed and she was in poor health. The marriage ended very quickly, in part due to his traveling for football, as well as accusations of infidelity. McConnell left Kirksville for family in New York while pregnant with their daughter Teresa. O'Dea did not travel to the baptism, nor is there evidence he showed any interest. However, his brother Andy, the reason Pat cited for his move to America in the first place, did attend the baptism, and promptly cut off ties to his famous but behaviorally derelict brother. Andy filled Pat's shoes and looked after Agnes and Teresa.⁵⁷⁰

Meanwhile, Pat coached Kirksville's Osteopaths football team for one year, besting both Missouri and Notre Dame, but his career ended then and there. After one year, he had won and was done. These short jobs had become a habit, and things were not going to get any better.⁵⁷¹

Revsine again said it best: "The school's catalog listed him as the Director of Athletics, erroneously crediting him with having received a bachelor's degree from Melbourne University in 1893, the same year that school had actually rejected him on three separate occasions. He departed Kirksville soon after graduation in the spring of 1903. His life, like that of the sport that had made him famous, was reaching the point of crisis."⁵⁷² The once-invincible Kangaroo Kicker was now at an all-time low. His lies about saving a drowning woman were long in the past. His adopted homeland had let him drink, party, and fraternize with "co-eds" whilst a football player; he had completed his degree from university but failed to graduate into adult life. Even the more accepting American life would not accept this of a coach or authority figure.

⁵⁷⁰ Revsine, *The Opening Kickoff*, 2014.

⁵⁷¹ Shutko, "College Football at Its Best."

⁵⁷² Revsine, *The Opening Kickoff*, 2014.

Football was changing too. His coaching career came between the overhaul of 1896 and the later overhaul of 1906. O'Dea's version of football, as he and many contemporary Americans had known it, was evolving, and so was his career, family, and fame. It is notable that, despite his fame, O'Dea was not consulted by President Theodore Roosevelt, Walter Camp, and other leaders of football when they reached out to Australia for a copy of the VFL's constitution in an attempt to "save" the game. This marked a pivotal moment that ultimately transformed American football into the modern game we know today.

Walter Camp had a copy of the Victorian Football League's 1906 constitution (housed in Camp's archives at Yale University in New Haven, Connecticut), and the VFL minutes housed at AFL House in Docklands, Melbourne, Victoria, do note the aforementioned letter sent by President Roosevelt.^{573 574} It is still hard to grasp that O'Dea would have become such a pariah in such a short period of time to not even be consulted or his expertise acknowledged publicly. After all, he had played both games at their top level, and grew up just down the road from the VFL. The precarity of American sport, and employment in the United States because of at-will employment, can be summed up by the old expression, "just because you're injured doesn't mean you can't be cut (from the team)." Though not injured in the physical sense, he was no longer relevant as far as the Americans in charge of "saving football" were concerned. This part of Americanization would have been a new experience to him since he had been the golden boy now only to be tossed to the side. This practice reflected a core element of American sporting culture, athletes were assets to be maximized, but once their value declined, they were swiftly discarded. O'Dea's fate exemplified this system, where performance dictated longevity, and past achievements held little weight in securing future opportunities. In this way, his experience was not just personal misfortune but

⁵⁷³ "Yale Archives Camp (Walter) Papers."

⁵⁷⁴ Wilson, "VFL Minutes 1903-1908."

a broader lesson in Americanization, demonstrating how the professional sports model in the United States prioritized immediate utility over long-term loyalty, an approach that would, in time, influence Australian sport as well. Simply put, past performance is no guarantee of future performance.

Dave Revsine acknowledges that O'Dea "faded from public view" in 1905 after departing as head coach of the American School of Osteopathy; he also notes that, despite his fade from view, he was named "the greatest long distance goal kicker ever seen in football" by the *Kansas City Star*, which, because it could not get in touch with him, decided to interview his brother Andy instead. Andy claimed that Pat was working for the Japanese government in Hawaii when Pat had actually moved to California, where he eventually began to practice law and coach the local Lowell High School.⁵⁷⁵ Perhaps Andy's misstatements were a result of their estrangement.

It is at least plausible that the article writers did not want Pat O'Dea involved, nor did he wish to speak with them. The paper's fact-finding mission would expose all of the lies he had told or stories he'd embellished since arriving in the United States a decade earlier. Perhaps he felt his legend didn't match reality. Worse yet, he may have been called out on his exaggerations and worried about putting himself in a position where people would both be able to and want to find out more about his stories. (His recovering the body of his friend's mother was not the same as him having saved her from drowning.) There could have also been an element of shame that he had been rejected from the University of Melbourne three times. There is no real way to know O'Dea's feelings, but there is also no clear indicator that President Roosevelt, Walter Camp and/or the other football leaders desired his presence.

It is clear from O'Dea's actions that he had a strong sense of his standing in America, likely believing that his athletic success would continue to ensure favorable treatment.

⁵⁷⁵ Revsine, *The Opening Kickoff*, 2014.

However, as his career progressed, it became apparent that his previous level of reverence was tied largely to his on-field performance. His experiences reflect how American sports culture places value on immediate success, and once that success waned, so did his standing. This contrast between his early hero status and subsequent exclusion from the important discussions about American football reflects broader trends in the American sports system, where athletes can rise to prominence quickly but are just as swiftly discarded once they are no longer considered valuable assets. While we cannot definitively know O'Dea's personal feelings, the pattern of his exclusion from discussions about the future of American football, despite his deep ties to both rugby and American football, points to a significant shift in his status, echoing the broader, systemic principles of American sport.

Though his troubles with the law were yet to come, O'Dea had already built a reputation around his alcohol-related issues and lost coaching opportunities. His personal life, including his abandonment of his wife and unborn daughter, stood in stark contrast to the values upheld by those leading the sport at the time. While American football would continue to evolve without him, the culture of the sport, focused on discipline and professionalism, would overshadow the more unstructured elements that had been a part of O'Dea's greatness.

To make the game safer, many options were discussed but the one that both prevailed and grew to change the game considerably would have been the forward pass. This and having seven of the 11 men on the line of scrimmage were intended to spread the players more thinly and prevent mass collision plays at a time where the field of play had already been shrunk both in length (110 yards) and width (68 yards) to 100 yards and 53.33 yards.

One of the primary concerns in reshaping the game was finding a way to reduce the growing number of serious injuries and fatalities. While several adjustments were proposed, including changes to tackling techniques and protective gear, it became evident that a more fundamental shift in gameplay was needed to ensure player safety and the sport's survival.

Though not popular at first, the forward pass, and later, having no one “on-sides” at the point of a punt in terms of a rugby league and rugby union perspective, would completely overshadow the aspect of the game that made O’Dea a great player. The one exception, where the ball could be punted to a teammate for territory, which still remains today, does not allow for the catch to be made beyond the line of scrimmage. This rule is covered in the NCAA Rulebook under Article 1: Behind the Neutral Zone A.R. 6-3-1:I-III and Rule 2-11-5, as well as in the NFL Rulebook Rule 9 Section 2 Article 1 (9-2-1) and Rule 9 Section 3 Article 1 (9-3-1).^{576 577 578} In a game that has evolved to promote long forward passes and promote possession, a short kick that, if not caught, is a live ball has become an obscure rule.^{579 580} The most recent, and last, scrimmage kick like this was in 2013 by Australian Jordan Berry of Eastern Kentucky University; he now plays for the Pittsburgh Steelers in the NFL.^{581 582}

Exceptions and New Rules

Though exceptions to the rule, such as the preceding example, are exciting to contemplate, this and other changes, such as perpetually reducing the value of kicking base goals relative to gaining value touchdowns, killed O’Dea’s ability to effectively coach the game as he had known it, even if his off-the-field antics had not already damaged his reputation. He had survived the first shifts, of giving an additional point to a converted touchdown, then a drop-goal between 1896 and 1897, but the changes that occurs beginning in 1905 and 1906 and extending through to 1912 were something else entirely. The

⁵⁷⁶ “2019 NFL Rulebook | NFL Football Operations.”

⁵⁷⁷ Redding, *NCAA Football Rules and Interpretations*.

⁵⁷⁸ R Powell, “Football Rules of the Game.”

⁵⁷⁹ *Official Playing Rules of the National Football League*.

⁵⁸⁰ R Powell, “Football Rules of the Game.”

⁵⁸¹ Redding, *NCAA Football Rules and Interpretations*.

⁵⁸² *Crazy EKU Punt Play at Morehead State, Sept. 21, 2013*.

introduction of the forward pass was not impactful immediately, as there were restrictions that made it undesirable, such as limitations on a quarterback's mobility and position when eligible to throw. Also, the ball would be turned over if a pass were incomplete. The dead ball ruling would eventually make this action quicker and a more accurate way of delivering the ball down the field to a receiver, who was no longer required to be behind the punter for fielding eligibility. These changes were also pivotal in the shift.

This is yet another example of Americanization since the introduction of the forward pass was a decisive moment in American football finally breaking away from its rugby roots. The value of a goal off the boot had already been diminishing in value during O'Dea's time playing but it would continue to reduce until it ended in its current iteration. The rugby codes would also follow this path with their try and the American touchdown becoming the focal point of opportunity for a team to score. In this sense, O'Dea was also a victim of Americanization and his inability to keep up.

Finally, and perhaps not as obvious, the introduction of seven men on the line of scrimmage meant that the mass formation plays, which resulted in the death of so many players (18 in 1905 alone and 45 between 1900 and 1905)⁵⁸³, meant there would no longer be the same pre-snap movement and backfield fluidity the game once had; it was the beginning of the game in its go-and-stop format, in which athletes go at 100% for four to six seconds and then have time to reset. O'Dea's efficacy at coaching kicking, as well as coaching the strategies he had learned, was now obsolete. Long drop-goals, kicking focused fullbacks, punting early in downs were all a thing of the past because of the rapid change in rules. He was a has-been before he could have been anything else in his adult, professional life.

Realizing his days were numbered, and his American experiment now a failure, O'Dea moved to the San Francisco Bay area in 1906 and tried to begin his new life. It was a rocky

⁵⁸³ Miller, *The Big Scrum*.

start, as he survived the infamous San Francisco earthquake. As mentioned, he coached local football but also umpired a few matches, and even took on coaching a rugby team despite having never played. Despite his success as a player, his reputation preceded him. As Dave Revsine states in examining Michael Shutko's collection of research, an unnamed local paper was happy to mention that O'Dea was "a failure as a coach."⁵⁸⁴ Then he was mugged again just two years later, in November 1908, and, for reasons unclear, he showed up drunk in court, according to his descendent Wendy Bolz in her unpublished manuscript.⁵⁸⁵

However, O'Dea seemed to turn his life around by 1913 when he was admitted to the California Bar to practice law, coached the crew team for a year at Stanford, and even coached "a young society girl name Celia Zwillinger, who shattered the national walking record for a woman."⁵⁸⁶

Then he disappeared for the first time. He was said to be working in the fruit business, living a quiet existence, but then he went into actual hiding in 1919 after the daughter of a prominent woman named Elsie Waters claimed O'Dea had embezzled money she had given him to invest in stocks but then fled to Seattle when she asked for the money back. He was indicted by a grand jury and left a note for his friend to read stating that he had gone to the "great beyond."⁵⁸⁷

It is important to remember that an indictment is not guilt, and the records for such proceedings are always sealed in perpetuity. At the same time, O'Dea's actions may have provided some insight into what really happened, along with the fact that the "great beyond" referred to by a colleague as reported in the San Francisco Chronicle was complemented by the friend stating that O'Dea had said he had always planned on giving the money back.⁵⁸⁸

⁵⁸⁴ Revsine, *The Opening Kickoff*, 2014.

⁵⁸⁵ Bolz, "The 'Kicking Kangaroo' and the 'Kangaroo Stroker.'"

⁵⁸⁶ Revsine, *The Opening Kickoff*, 2014.

⁵⁸⁷ San Francisco Chronicle Staff Writer, "Athlete Faces Embezzlement Charge: Missing."

⁵⁸⁸ San Francisco Chronicle Staff Writer.

The full quote is so leading as to assume suicide, while still being open-ended enough to be understood in other ways, as in Pat O’Dea’s classic style. In entirety, it said: “By the time you receive this I will have passed into the great beyond where I will find rest.”⁵⁸⁹ Picking up where we began, Pat O’Dea fled the courts and was indicted by a California grand jury for embezzlement in his official capacity as a lawyer. There was no suicide.

Likewise, when his second wife Emma divorced him, she did so for the legal reason of abandonment. The truth was that he had already been in contact with his old Wisconsin friends, who were from wealthy families and called in a favor. She knew about this and played the part to get law enforcement off her back and protect him from being found where O’Dea’s friends had a job and privacy waiting. In short, it was all a diversion. She sued him and he did not show up to give the impression that he had truly abandoned her. Yet she then met with him and continued their relationship. The “great beyond” that he referred to was actually northeastern California, specifically the small town of Westwood. Not to be confused with the neighborhood in Los Angeles, this was a small logging community where he would work to prevent any workers from unionizing. As mentioned previously, and as discussed at length in its chapter, this was interestingly in alignment with the laws that no longer required good cause to fire Americans; at-will employment became law in 1895’s *Martin v. New York Life Insurance*, and the policy had been abused in the years since.⁵⁹⁰ It is purely coincidental that O’Dea arrived the same year the law was passed, as is the nature of his employment in the United States, but they are entirely consistent with his own and the narrative of US law and business especially given that he was tasked with union busting by his friend/employer while living in Westwood.

⁵⁸⁹ San Francisco Chronicle Staff Writer.

⁵⁹⁰ *Martin v. New York Life Ins. Co.* | Cases | Westlaw.

As underhanded as firing someone without good cause may seem, it was not without precedent. As is discussed in the chapter outlining how the at-will employment (AWE) doctrine has shaped American and American sports culture, O'Dea's job in preventing people from creating such associations/unions was very in alignment with the times, and very much an adoption of US culture. In the year he sailed over from Australia (1895), New York State's highest court, known as the New York Court of Appeals, erratically and without a consistent series of legal precedent, ruled in favor of the ability of employers to be able to fire employees without good cause, as per H.G. Wood's 1877 treatise on the subject matter known as *A Treatise on the Law of Master and Servant*.^{591 592} It did not matter that Wood's writing lacked legal rigor, that he was not a well-known text writer in the legal field, nor that the cases he cited disagreed with his conclusion; from that point forward, future cases would cite and defer to *Martin v. New York Life Insurance Co.* (1895) and Wood's treatise.⁵⁹³ As covered in greater depth in the chapter fleshing out the nature of at-will employment, its origin, and the manner in which it has had a profound impact on culture, as per Professor David McClelland's treatise *Theory of Motivation*, in which he describes the three human needs. As a result, of at-will employment, the ability to achieve a meaningful degree of success with these motivators in *Theory of Motivation* becomes very difficult to attain.

These Australian and other athletes and their experiences are especially germane, and make for a good group to compare and contrast the cultural ideals in the United States, especially since there are reasonable similarities by nature of their being from English-speaking industrialized nations. That said, by the time O'Dea was in the employ, and under the protection, of his university friends in Northern California around 1917, a full 22 years after the New York State ruling, this doctrine was long ingrained across the United States.

⁵⁹¹ *Martin v. New York Life Ins. Co.* | Cases | Westlaw.

⁵⁹² Wood, *A Treatise on the Law of Master and Servant*, 1877.

⁵⁹³ Shapiro and Tune, "Implied Contract Rights to Job Security Note."

So, in a strange way, he was participating in one of the largest shifts in American culture, albeit not a positive, and one many later Australians would view as negative. O'Dea's work and playing in American helped ensure that the only form of negotiating fair employment terms, unions and associations were prevented from even forming.⁵⁹⁴ Despite that O'Dea had enjoyed the benefits of American labor laws, his then turning against such labor practices seem contradictory to the Australian fair dinkum worldview. In this sense, the opportunism that he enjoyed combined with this change in American culture, despite any existing cultural differences resulting from his having been raised in another country.

In saying so, O'Dea's it is reasonable see this process as a greater way in which Americanization occurs. O'Dea's English-speaking background is an extension of the English-speaking world and, though O'Dea went to America and began adapting to his surroundings and adopting the local practices, the same can be said for the awareness of American practices through any sort of relationship with the United States whether one lives there or not; certainly, sharing a language makes the flow of ideas easier to proliferate than to nations where the language is different. Both America's presence in the world in both realms of hard and soft influence means that exposure is greater when the language is shared even when such exposure is misunderstood.

It seems O'Dea did find some rest during his time in the woods. Because there was no national registry like social security to provide him a form of identification, as Revsine notes, O'Dea simply moved north and assumed the name Charles Mitchell, the surname an homage to his old friend Dame Nellie Melba's original family name, though he oddly claimed it to be his mother's maiden name, which it was not. Additionally, his second wife, who had earlier divorced him, joined him up north, going by the name Emma Mitchell. It seems she divorced him only to throw investigators off his trail. O'Dea was so well protected that

⁵⁹⁴ Revsine, *The Opening Kickoff*, 2014.

Senator Robert La Follette Sr. was said to have spent time with O'Dea even while he was in hiding.⁵⁹⁵ This account was later confirmed by O'Dea himself, who said La Follette often visited and spent a great deal of time with him during the former's failed presidential campaign in 1924. However, given his track record, it is hard to believe anything O'Dea said.⁵⁹⁶

O'Dea liked the attention and he especially loved to talk. His love of the spotlight was evident in the 12-chapter newspaper series, "Wisconsin's Great Gridder Got Hoarse Talking of Exploits." The fact that his old friends from his golden boy days came to bat when he most needed it shows that he had not entirely misread the American culture. He may have been a social pariah publicly, but those with whom he had formed strong Midwestern bonds looked out for their friends. America is a very diverse place with separate regional and local identities, and O'Dea lucked out that he hadn't played in a less "loyal" city during his glory days.

O'Dea read many newspapers while in hiding, and one report enraged him by claiming a plaque mentioned he had died as an army man in the First World War, thanks largely to his disappearance overlapping with the war itself. In an almost comedic manner, he "simply couldn't take the fact that, he'd never been in the army!"⁵⁹⁷

O'Dea stayed undercover until 1934, when he found out that the University of Wisconsin was inducting him into their hall of fame. After I spoke with Loyola Law School's Professor Bob Brain, it is still not entirely clear why he waited until then.⁵⁹⁸ Prior to speaking with him and his research assistant Jonathan Berrera, it had appeared that the 15 years O'Dea had been in hiding were largely, if not entirely, due to the possibility of waiting

⁵⁹⁵ Foley, "Pat O'Dea Disclaims Playing Hero's Role."

⁵⁹⁶ Foley, "Wisconsin's Great Gridder Got Hoarse Talking of Exploits."

⁵⁹⁷ Foley.

⁵⁹⁸ Kassimir, Brain, and Berrera, "Long Time - Interesting Sports Research PhD (with a Hint of Legal)," August 15, 2019.

out a lengthy statute of limitations for his crimes. This logic is not sound. Firstly, between 1919 and 1934, the statute of limitations for embezzlement in the state of California was only three years. As per Berrera's findings and Brain's confirmation, this can be found in the following two parts of California's legal code, and substantiated through the latter four cases: "1. Cal Code Civ Proc § 359, 2. Cal Pen Code § 800, 3. Coombes v. Getz, 217 Cal. 320, 4. Original Mining & Milling Co. v. San Joaquin Light & Power Corp., 220 Cal. 152, 5. People v. Crane, 34 Cal. App 599 and, 6 People v. Hill, 2 Cal. App 2d 141."⁵⁹⁹ However, the larger issue is that this would no longer be applicable since O'Dea had already been indicted, meaning Elsie Waters could still continue the proceedings against him.

However, it is extremely difficult to know what exactly happened for two reasons. As confirmed by Charles L. Miller of the National Archives in San Francisco, "Grand Jury information is restricted under rule 6(e) of the Federal Rules of Criminal Procedure in perpetuity unless opened by court order, and exempt from disclosure under 5 U.S.C. 552(b)(3)."⁶⁰⁰ Unless there were a court order, which is not attainable for merely research purposes, obtaining more information via this method is not possible.

It is interesting to note that Miller wrote how there is nearly no mention of O'Dea at all. "I'm having a difficult time finding anything on Patrick J. O'Dea regarding a possible court case. I don't see his name in our case file index for Defendants (and nothing under Elsie Waters in Plaintiffs) in the US Circuit and District Courts in San Francisco for the time period. I even looked at old San Francisco Chronicle newspapers online to see if they covered any trial. All [I] find is one or two mentions of O'Dea belonging to an attorney's club around 1910."⁶⁰¹ It is as if he never even really practiced as a lawyer despite being admitted to the bar, let alone is there any mention of him as someone's representative and/or

⁵⁹⁹ Kassimir, Brain, and Berrera.

⁶⁰⁰ Kassimir and Miller, "Patrick J. O'Dea," September 21, 2019.

⁶⁰¹ Kassimir and Miller.

as a defendant. It is additionally strange that there is nothing listed for the case's plaintiff either. The second point is, as per Dave Revsine, the FBI burned his file, which is normal practice, they told him, in cases where a person is no longer relevant.⁶⁰² If O'Dea was to come out of hiding, he would have had to do so at the risk of being brought back to court at the age of 62, even 15 years after the indictment.

However, it is reasonable to believe that the reason for O'Dea coming out of hiding was less litigious and more practical. Revsine mentions that his second wife was reported to have been ill in 1935 and that the doctor recommended she get out of the high-altitude atmosphere of Westwood, California.⁶⁰³ Her illness combined with O'Dea's hubris, his missing the spotlight, getting angry when newspapers failed to cover him the way he wanted to be depicted, and probably general boredom, and he was still many people's golden boy, including those in power, such as the aforementioned senator and wealthy families. What is provided is not a neat and tidy explanation logically, but it is in alignment with the person Pat O'Dea had become.

Whatever the case, O'Dea went back to Wisconsin to be inducted, but only after close friends came to inspect him to determine whether or not he was truly their old friend. His older brother Andy also confirmed his identity.⁶⁰⁴

The fame of Wisconsin's beloved Kangaroo Kicker gave him a new lease on life, which in turn boosted the team. In 1932, thousands of Wisconsin fans showed up to see the old man return, still standing at 6'2" and 170 lbs.⁶⁰⁵

O'Dea lived out the rest of his days in California comfortably. He was treated like royalty and brought to all the big Wisconsin games, including their first Rose Bowl

⁶⁰² Revsine, *Opening Kickoff*.

⁶⁰³ Revsine, *The Opening Kickoff*, 2014.

⁶⁰⁴ Revsine, *The Opening Kickoff*, 2014.

⁶⁰⁵ Foley, "Wisconsin's Great Gridder Got Hoarse Talking of Exploits."

appearance in 1952, and he was flown to Wisconsin to watch his alma mater take on Stanford when he was 87 years old. He is said to have been writing his autobiography, and a few publishers showed interest, but it was never completed and “no traces of it have ever been located.”⁶⁰⁶

Emma passed away in 1956, and O’Dea retired in 1958 at 86 years of age from his work at a men’s clothing store. Not to be outdone by his past dramas, such as being mugged in Chicago, burned by scalding water, the San Francisco earthquake, getting mugged again in San Francisco, in 1960, at the age of 88, he was hit by a taxi but was said to have recovered well enough to travel to Idaho in 1961 and holiday with his no-longer-estranged daughter Teresa.^{607 608} It seems O’Dea had a change of heart after abandoning her before she was even born, and was looking to tie up loose ends even at 89 years of age. His story is reminiscent of the fictional character Randy “the Ram” Robinson, portrayed by Mickey Rourke in 2008’s *The Wrestler*. O’Dea and Rourke’s fictional character are similar in that they are past their prime and trying to balance getting back in the spotlight while repairing earlier damage to a daughter. Randy Robinson tried but reverted back to the public icon life he wanted, at the expense of any likely future involving his daughter.

It is difficult to discern why exactly he had this change of heart concerning his daughter, but from what we saw of the episodes throughout his life, there must have been something in it for him, whether emotional or even public.⁶⁰⁹

Pat O’Dea, at 89 years of age, had cancer and was admitted to the University of California Medical Center. Just after reconciling with his daughter, O’Dea received some incredible news while in the hospital. Accompanied by “no fewer than five nurses,” a letter

⁶⁰⁶ Revsine, *The Opening Kickoff*, 2014.

⁶⁰⁷ Ryan, “O’Dea Shelved by Taxi.”

⁶⁰⁸ Bolz, “The ‘Kicking Kangaroo’ and the ‘Kangaroo Stroker.’”

⁶⁰⁹ Bolz.

from President John F. Kennedy was delivered to him in room 912. “As a fellow son of Erin and longtime admirer of your fine sports record, I wanted to wish you a belated but very sincere happy birthday. I was sorry to hear of your illness and hope you will be on your feet again.”⁶¹⁰ The letter would be preserved “for the children,” but O’Dea was more focused on having his son-in-law “get the phone numbers of all the pretty girls.”⁶¹¹

If a get-well letter from the sitting president were not enough, O’Dea would also receive news that he was to be officially inducted into the College Football Hall of Fame. The day after it was made official, 3 April 1962, he passed away at 90 years old.

In line with much of what has been written about the man, Coach Milt Bruhn summed up O’Dea best: “He was hard to find.”⁶¹² This was true perhaps not just in the geographical sense but also in as much as the person he was. Pat O’Dea is still the only Australian in the American football Hall of Fame, and his dropkick and punting records still stand, but these records don’t provide an adequate picture of how a country boy from Kilmore, Victoria, turned into someone who, but for a foreign accent, embodied many of the traits most commonly associated with white professional male athletes in America during that era.

Pat O’Dea, for all of his records, antics, and Hall of Fame status, is hardly known in Australia. There is only a single copy of Dave Revsine’s partial biography available in Australia, and it is not even at a public library but rather at the University of Sydney. The closest publicly available copy is 1600 miles away in Auckland, New Zealand, and then another 7700 miles from there in Anchorage, Alaska.⁶¹³ On a personal note, when refereeing a rugby league match on 10 August 2019 between Hume City Bulldogs and Sunshine

⁶¹⁰ San Francisco Chronicle Staff Writer, “Wrote JFK to Pat O’Dea.”

⁶¹¹ Bolz, “The ‘Kicking Kangaroo’ and the ‘Kangaroo Stroker.’”

⁶¹² Wisconsin Rapids Daily Tribune Staff Tribune, “O’Dea Mystery Deepens.”

⁶¹³ “Opening Kickoff Library Availability.”

Cowboys, I met a family who lives in O'Dea's hometown of Kilmore, and who, when asked if they had heard of him, said the name sounded familiar but not especially so. When I said who he was, they said they never would have guessed.

Mitigating the fact that he stopped playing around 120 years ago and was inducted into the Hall of Fame in 1962, it is understandable that more people might remember his name had he been from a large city. But Kilmore is still a small town. It is a sad reality that Pat O'Dea was a fantastical character and lived his life as he wished, yet so few Australians have heard of him. The man had a personality better suited for America's big stage and wild west "shoot first ask later" mentality. O'Dea was an oddball when he left Australia, and we can see from his actions that he did not exactly blend in when arriving in America, but he assimilated when he had to. There is something to be said about this since a great aspect of being American, then as now, is to be noticed for one's uniqueness, which is the antithesis of Australia's tall-poppy mentality.

On the other hand, Pat O'Dea became the person he thought Americans wanted, and this is quite sad. As the "golden boy," he was permitted to do things that regular people would never have been allowed. Yet, he failed to realize that this standard would not last his whole life. In his time, this may have been more so the case for professional baseball players in retirement, but not for amateur footballers in their post-career lives. He misread America and America's culture in assuming that his being the exception to the rule would continue indefinitely. Moreover, even if he did realize that this would no longer be the case, he failed to graduate from that part of his life, continuing on as if he would forever enjoy all of the privileges associated with being the collegiate football star he was. His ignorance or unwillingness to part from his Peter Pan standards, or what he may have viewed as America's cultural favoritism towards athletes, held him back, got him fired from jobs, and eventually saw him exiled for around 13 years of hiding.

During his self-imposed exile, O'Dea was protected from legal consequences, and when he came back it was to a hero's welcome, seemingly no questions asked. Nonetheless, he lacked for opportunity after his playing career had ended. Pat O'Dea absolutely Americanized and embraced what he believed to be the American way; he just misunderstood what that meant and failed to move on, even if he ever in fact understood it.

Conclusion and Need for Further Research

From what is understood from his life, and though Pat O'Dea's identity as a true-blue Australian may have diminished in his embracing the larger-than-life American lifestyle, with its lows as deep as its highs were stratospheric, with all he had gone through, for those who know or are interested in seeking out his story, he will forever be remembered as the Kangaroo Kicker and a cornerstone of the Australian and international experience of athletes in American sport.

Being the first at something is not as meaningful as being the first at something that becomes a trend.⁶¹⁴ In certain ways Pat O'Dea was both. He was certainly the first Australian to bring the talents of Australian rules into American football as well as the first known Australian to play on the American gridiron. He is also the first and only Australian in any American football Hall of Fame. He was the first to stay and live out the rest of his life in the United States, where he embraced American culture, though how much he Americanized remains a matter of debate. However, although these Americanization trends continue, and will do so as long as people like Nate Chapman at Prokick Australia are training Australians to progress onto the NCAA gridiron, the throughline narrative connecting O'Dea to modernity is lacking.⁶¹⁵ Edward 'Carji' Greeves did not play for USC

⁶¹⁴ Collins, "Rugby Reloaded."

⁶¹⁵ Kassimir, "Chat and Business Interview with AFL/NFL's Nathan Chapman, Founder of Prokick Australia."

until over two decades had passed after O’Dea’s time, in which time the NFL was created and the rules of the gridiron were existentially changed with the forward pass and other 1906 rule changes. He did not stay in the United States, which also was the case for many other Australians.⁶¹⁶

Colin Ridgway was the first Australian to play in the NFL and lived the rest of his life in the United States but this was over two decades removed from the time Greeves played. He only played three games for the Dallas Cowboys and was tragically murdered, though it is reasonable to assume that he did not intend to move back to Australia had he lived.⁶¹⁷ Colin Scotts was not a punter; he did not play Australian rules as he played rugby union, but he played for around two decades after Ridgway and did not stay in the United States, which he writes about extensively in his autobiography. Scotts was the first Australian to be offered an NCAA scholarship and the first to be drafted in the NFL.⁶¹⁸ Then, less than two decades later, Darren Bennett came on the scene as a punter, followed by Ben Graham (the first Australian to play in a Super Bowl), Sav Rocca, and others. Most recently, Nathan Chapman created Prokick Australia, and now there is a steady stream of Australian punting talent coming into the NCAA as well as to the NFL and CFL.

Even though Pat O’Dea was a trailblazer, it is difficult to argue that he immediately started a trend of Australians going into American football. Rather, he was the first *known* Australian to do so, and many Australians and other members of the Commonwealth subsequently seized opportunities offered by the United States and its culture open to athletes from around the world. O’Dea stands as a clear starting point for the value of Australian talent on the gridiron. Each subsequent athlete to step onto an American football field owes a debt to O’Dea as the starting point. His impacts were not immediately noted during his

⁶¹⁶ Austin, “Greeves, Edward Goderich (Carji) (1903–1963).”

⁶¹⁷ Ison, “Colin Ridgway, the Tragic Tale of Australia’s First NFL Player.”

⁶¹⁸ Scotts and Condie, *All Balls*.

playing career, and his accomplishments were also hampered due to the rule changes that retroactively diminished the value of his skills. However, he commenced a sort of slow burn of opportunity that has been of great value to Australians and other internationals aiming to pick up a pigskin ball and aim for the largest sports entertainment market in the world.

As demonstrated, Pat O'Dea's career(s) highlight(s) the complexities and contradictions of Americanization. He took advantage of sport and social paradigms of stardom that was larger and unique to the United States and this allowed him to have a career in football as a coach after being a player. Combined with his presence as proverbial tabloid star due to his alleged relationship with Dame Nellie Melba, he had doors opened to him that never would have been should he have stayed in Australia. His inability to fully grasp many of these differences, along with his personality, lead him to misunderstand aspects so, though he did Americanize, some of the decisions he made were inconsistent with an American understanding. This is also applicable to those today who move to the United States along with people who are influenced by American political, popular, sport, and other forms of culture but only learn and/or consume it from afar. If the person also understands American English, the cultural paradigms are proliferated more easily but, at the same time, leave themselves open to be misunderstood as shared language can be a surprising veneer for underlying cultural differences. Whether Americanization is perfectly understood by the recipient is not an all-encompassing matter that should undermine the understanding of the various ways in which Americanization occurs because the American way in which things are done or, at least, portrayed are still being proliferated.

O'Dea's career highlights how, in America, sport and celebrity could be created but also foreshadow how sport/football and celebrity would grow in the latter half of the 20th century. The impact of the United States' legal system of at-will employment shaped his adaptation to American cultural values and moved his identity as an athlete toward one of a

commercial commodity. The processes that O'Dea underwent in America such as, local hero, endorsement of product, featured on celebrity yellow pages and sports pages, post playing career by using his celebrity, which would not have been possible but for his sport celebrity. Though these are different results from Americanization previously described, such as limited tackles in rugby league (use it or lose it ultimatum), they still originate with the same aspects of cultural and commercial aspects that emanate from the United States. This would enter Australia in the 20th century and these are forms of Americanization including commercialization of sport and commodification of the individual.

The forms of Americanization explored in this chapter differ from rule-based changes like limited tackles or the influence of at-will employment, extending beyond the game's structure to redefine how it is played, governed, and commercialized. The "use it or lose it" ultimatum, where possession must be actively used or forfeited, as seen in limited downs in gridiron football or the shot clock in basketball, represents a shift toward a more structured and transactional approach to possession, one that contrasts with the continuous, contested nature of older football codes. Off the field, at-will employment principles shape not only contractual instability but also broader cultural norms that reinforce the disposability of athletes within the sporting landscape. Pat O'Dea's career adds yet another dimension, the rise of the commercial celebrity, where the individual athlete becomes a marketable product, valued as much for spectacle as for performance. These overlapping influences, cultural, commercial, legal, and celebrity, demonstrate that Americanization is not a singular process but a layered phenomenon that has reshaped sport in ways both structural and philosophical.

Chapter 7: General Discussion and Conclusions

1. Major Findings/What was Learned?

As stated in the introduction, the goal of this research was to explore and better understand the dynamics of Americanization in sport via the relationship between the United States and Australia. The complexities of Americanization extend beyond the surface of traditional hard-power whether in terms of economy, military, or other traditional forms but also extends to the soft-power influences such as but not limited to professionalization, commercialization, at-will employment (even in nations that have a fair work commission or something similar). It is not as if Americanization is also limited only to the America's policies, government and people actively proselytizing others but others actively looking to the United States and its policies as well as methodologies for the above but even rules/laws of sports and sports codes.

This research has looked at different aspects of Americanization and its influence on sports codes in Australia along with the impact of the aforementioned culture on the Australian as an individual going into American sport and society though, at times, there were also contradictions. Examples of such are in Australian, as well as English, rugby league stemming from its origins from an English form of an attrition-based attack to an American based "use it or lose it ultimatum." The American form has been followed, not only in rugby league, but also has been adopted in the short-forms of cricket, the increased difficulty of earning a mark in Australian rules football (from 10m to 15m), and even rugby union with the referee demanding the team with ball possession to "use it" whilst in the ruck and not waste time. Even baseball has similarly adopted a pitch clock to ensure there is less time between action on the field. At the same time, the seeming contradiction in looking to America would be when the case of President Theodore Roosevelt and Walter Camp consulting with the Victorian Football League's constitution for best practices to save

American college football. However, this is not a contradiction but an outlier where America chose to look abroad and does not change the overarching paradigm that other sport groups outside the United States chose to look to professional sports in the United States since those around the world were still behind and nearly all still amateur when compared even going through as late as the 1980s and 1990s when true professionalism started to take a hold in Australian and English sport.

However, the changes are not just on the field but off the field with the Football Association, as per Szymanski and Zimbalist, which adopted player payment (professionalism without a salary cap) in 1885 by copying National League baseball. Though the United States was the first to adopt professionalism and do so in baseball largely free of stigma, that is not to say it did/does not have its own form of amateur control in university sport. Though from today's perspective, this appears to be a contradiction because university athletes are permitted to earn money from their likeness due to the NIL, the perspective in the early 1800s was that these athletes truly were students first. It was not until the universities started making lots of money by selling tickets and filling stadiums that the discussion around these student-athletes getting remunerated began to become an issue. In this capacity, however, these discussions were and still are largely limited to American gridiron. This is because American football came from the rugby union school of thinking in promoting amateurism but also because the other sports, such as baseball or rowing, either already had a professional league that pre-existed major university competition or were not large enough for the public to take a major interest to the same degree as the former two. Rugby union did professionalize and, 100 years before doing so, had split into two codes over professionalism with rugby league copying the American model.

There is also the aspect of Australians and other internationals, as individuals, benefitting from the American model and Americanizing, as far back as the 1880s and 1890s. Many like

Pat O'Dea's elder brother, Andy O'Dea, went to the United States to be paid to coach university sport where it was not taboo but not to compete. Pat O'Dea, moved to the United States where he competed as an athlete, first in rowing and then in Football, where he Americanized and benefitted from a university system that was willing to focus on his athletic talents more than his academic background in exchange for on-field performance. This was not an option for him in Australia in the 1890s and though today's Australian universities do not have the same amount of emphasis as the United States in reducing academic rigor for those with other skills, the policies have certainly softened and become more Americanized in seeing at least some value in a successful individuals' non-academic skills.

Conversely, because American football and its predecessor football codes were part of a university system, the United States later divided into different university criteria for universities that do and do not provide scholarships for non-academic skills such as Football Bowl Subdivision (FBS/Division I), Football Championship Subdivision (FCS), and Division 3. Now being part of Division III, the Ivy League universities are no longer the powerhouse of American football that they once were though they both still maintain their strength as individual institutions and, per law, allow students to earn money from their likeness. Therefore, though baseball had a large-scale, sport entertainment, professional presence since the mid 1800s, this was not the case for football only due to the role of the athletes as students first and footballers second despite them creating financial value and earnings for their institutions.

Moreover, America's unique use of at-will employment underscores the broader complexities of Americanization, which is not a singular or uniform development but a layered and often contradictory phenomenon that manifests in various aspects of sport. At its core, it encompasses professionalization, commercialization, the influence of at-will

employment, and the impact on rule modifications, each of which carries distinct yet interconnected consequences. Professionalization, seen in the shift toward structured leagues, player contracts, and performance-based incentives, has played a critical role in shaping the way athletes are recruited, developed, and compensated. Commercialization has further reinforced these changes, as sport has become increasingly intertwined with media, corporate sponsorship, and the broader entertainment industry, elevating individual athletes as marketable figures while also driving regulatory shifts to enhance spectacle and profitability. At-will employment principles, which extend beyond the workplace and into sport, reinforce a system where players are treated as disposable assets, their tenure dictated by performance rather than long-term stability. Meanwhile, the influence of American football's structured possession-based rule set, particularly in contrast to the fluidity of older rugby-derived codes, has underscored a philosophical shift in how games are played and regulated. This thesis has examined these different aspects of Americanization across multiple case studies, revealing not only its influence on Australian sport but also the inherent contradictions, while certain elements, such as professionalization and rule adaptation, have been widely embraced, the broader cultural implications of at-will employment and the commodification of athletes remain points of contention.

This dynamic was certainly explored, but there is much more that yet remains unknown. One of the biggest surprises was just how profoundly at-will employment in the United States has not only shaped law but also its overall domestic culture. Also surprising was how this has produced impacts beyond the US borders, whether on a macro basis, such as an entire sports code like rugby league, or the micro level, such as an individual like Pat O'Dea. Clearly, these are just examples, and the impact of the at-will employment culture in America also permeates into other aspects of business, law, and international politics. In many ways,

this is the first serious investigation of the interrelated nature of American sports culture and Australian sport. However, much remains to be learned.

Heretofore, there has largely been a lack of academic research into Pat O'Dea in this area, which made the current research especially challenging. Dave Revsine's work is quite in depth as discussed and there is also a collection at the Melbourne Cricket Club pertaining to O'Dea with some articles written for their publication *The Yorker* but, by and large, most writing about O'Dea circle the same limited primary sources whilst circling the same or, at least, similar popular sources. There is even no mention of O'Dea in *Australians in America: 1876 – 1976*.⁶¹⁹ For example, there are superficial, obvious examples that are well recorded pertaining to the American "soft power" influence given that it is the largest economy and largest sports entertainment market in the world. An example includes the post-1966 rule changes in rugby league, such as the switch from unlimited to four tackles, which is based on the four-down rule of American gridiron, as displayed in the NFL and other forms of American football. However, understanding the impact this phenomenon has had on one specific individual was very challenging. There are limited resources on Pat O'Dea and, though there exists more research on later figures such as Darren Bennett that should be researched further, O'Dea is the earliest known presence of an Australian athlete in American football, and he remains the only one to be in the Hall of Fame.

It is clear that the impact of at-will employment was and remains felt profoundly in the United States, requiring inquiry from a legal perspective. Yet, in many ways at-will employment in law and business foreshadowed what commercial sport would look like through the 20th and into the 21st centuries. In saying so, contracts for athletes are to be honored though, like and business, attempts to find loopholes to get out of an employment agreement when not beneficial is to be expected. However, unlike at-will employment, the

⁶¹⁹ Moore, *Australians in America, 1876-1976*.

Australian Fair Work Commission is very clear as to how a business is to properly fire someone. This makes things both potentially more stable and/or stagnant but still more flexible than countries in Europe where there is no concept of casual employment. While Australian labor law provides greater protections than the at-will employment model in the United States, professional athlete contracts exist in a space that balances stability with the reality of performance-based employment. In Australian sport, contracts are binding agreements, yet they often include clauses allowing for termination or renegotiation based on form, injury, or off-field conduct. Unlike standard employment, where wrongful dismissal claims can be pursued through the Fair Work Commission, the nature of professional sport means that athletes can be released under conditions that would not be permissible in other industries. At the same time, governing bodies and player unions in Australia have played a role in ensuring that contracts provide greater security than their American counterparts, where non-guaranteed deals are common in many sports. This middle ground reflects broader differences between the two systems, while Australian sport has absorbed aspects of Americanization in its commercial structures, it remains tethered to a legal framework that prioritizes worker protections over absolute employer flexibility.

The precarity of the athlete's employment status mirrors the average American's in the sense that all are expendable for the right financial reason, regardless of job performance. Though baseball had been professional since the 1800s, this was not the case for other sports like basketball, ice hockey, and even American football. Baseball's early embrace of professionalism not only set the standard for contractual arrangements in American sport but also provided the model for the early professionalism of soccer, both in the United States and abroad. The introduction of structured leagues, standardized player contracts, and the reserve clause, which effectively bound players to their clubs with limited bargaining power, became foundational elements not only in baseball but also in professional soccer. In England, where

football clubs began transitioning to professionalism in the late 19th century, these same economic principles took hold, shaping the structure of leagues and the dynamics of player movement. This influence extended beyond player contracts, as baseball's commercial approach to sport, with ticket sales, media engagement, and sponsorship, set a precedent for how professional soccer would be marketed and sustained in the decades to follow.

Baseball's early embrace of professionalism not only set the standard for contractual arrangements in American sport but also provided the model for the early professionalism of soccer, both in the United States and abroad. The structure of leagues, player contracts, and the reserve clause, which bound players to teams with little bargaining power, heavily influenced the formation of early soccer leagues, particularly in England, where professional football clubs emerged in the late 19th century under similar economic principles.

Professional sport, as we see, has mimicked these lulls and spurts of growth. Rugby league, though technically professional since 1895, did not truly exhibit a true professionalism, as seen in the United States, where players are full-time employees, until the 1970s and 1980s.

Meanwhile, Pat O'Dea foreshadowed the future of Australian football and other forms of athletic talent coming into the United States. Many students from Australia and other countries continue to get full ride scholarships to university in exchange for their athletic talents. What is uniquely different about Pat O'Dea is, unlike his brother and many others from the British Empire, he was not hired to be a coach to bring up the talent of Americans but rather to study at university, and he experienced benefits by virtue of what is now called "student athletes" status. Going to an American university to be an athlete was uniquely different from the old model of American institutions hiring talent from the British Empire to be coaches; the reason for going to America was to be paid for these services that would not generate a living back home.

Pat O'Dea was truly the first in the meaningful sense because he is both the first Australian that we know of to do so and was then followed by many others. There are likely many other sport figures who remain unknown; O'Dea was the first to propagate such a trend. Many others followed, including Edward "Carji" Greeves (1920s), Colin Ridgway (1960s), Colin Scotts (non-kicker/punter 1980s), Darren Bennett (along with Ben Graham and Sav Rocca, etc., from the 1990s and early 2000s) and finally those from Nathan Chapman's Prokick Australia group (2010s to date). Rather than a direct lineage, this could more accurately be described as a long trend.

The reverse path has also happened: Mason Cox is an American playing for Collingwood in the. Other Americans have preceded him, such as Jason Holmes. This migration is not limited to Australian Rules as the late Manfred Moore played rugby league for the Newtown Jets. Whether these examples can be considered part of a larger trend of Americans playing non-American sports abroad, as individual examples they should be considered as comparing and contrasting with Pat O'Dea and Australians who came to America.

Therefore, a practical question for continuing the research is whether or not Americanization, and globalization by extension, is a one-way street. Manfred Moore's short experience at Newtown RLFC is notably different from Jordan Mailata's with the Philadelphia Eagles. The question of whether Mason Cox's tenure at Collingwood was more like the former or latter had been a question until he won a Grand Final with them. America does not appear to take an active approach in learning from and looking to Australia for the majority of instances though it does happen. Independent of Australia, we do see American football coaches occasionally looking to their Australian players for ideas such as the one-off drop kick from Michael Dickson, but Nate Ebner and Doug Flutie (both Americans) had already done it in fairly recent times. It is a two-way street where the majority of lanes still

lead toward America whether it is the gravity of America's active attempt to draw influence or the choice of people to move in that direction..

The differing experiences of Manfred Moore, Jordan Mailata, and Mason Cox highlight the complexities of Americanization, demonstrating that it is not a uniform or entirely predictable process. While the flow of influence is largely one-way, with Australian athletes and sporting codes adapting to American structures, there are moments of exchange that challenge this assumption. The occasional adoption of techniques, such as Michael Dickson's drop kick, suggests that Americanization does not mean total cultural dominance, but rather a selective process where certain elements are absorbed while others are ignored. This raises questions about whether Americanization is a purely top-down force or if it is shaped by the agency of individuals navigating their own opportunities. The reality is that Americanization is not an absolute, singular event, but an evolving interaction of cultural, economic, and institutional factors that shape sport in different ways depending on the context.

The cases of Manfred Moore, Jordan Mailata, and Mason Cox demonstrate that Americanization is not a simple, one-way process but a far more complex and uneven phenomenon. While American sport has drawn in athletes from Australia, the degree to which their presence has meaningfully influenced American sport itself remains inconsistent. There are moments where knowledge transfer occurs in the opposite direction, such as American football coaches adapting elements of Australian kicking techniques, but these remain exceptions rather than the rule. The broader trend suggests that Americanization is not merely about the spread of ideas but about the structures that enable their adoption, whether through economic power, institutional influence, or the willingness of individuals to engage with a new system. In this way, Americanization does not operate as a rigid or absolute process but as one shaped by context, opportunity, and the choices of those who navigate its pathways.

2. What is Practical?

What is most evident is the broader implication of the Americanization of Australian sport and Australian *individuals* in sport. If they have had this much of an impact on both the direction of an entire sport such as rugby league as well as on individuals such as Pat O'Dea, there is a strong likeliness that this would apply not only to other former British Empire and post-industrial nations, but globally. There will most likely be more overlap with post-industrial, English-speaking, white, former British Empire nations, but that is not to say that sport and individuals outside of this specific paradigm would not also be impacted. The methodology utilized in this research should be applied to similar future research too.

Applying this methodology going forward would also be illuminating when examining post-1980 Australian (and others mentioned) athletes who have gone into the NFL, NCAA football, and professional American sport. There are strong correlations suggesting that, though times have changed, many policies, protocols, and cultural paradigms have not. The lack of an NFL in Pat O'Dea's era, along with the rapid-fire, fundamental changes to the game that he experienced, are not the norm now, nor have they been since 1906 as the game has remained relatively stable. Similarly, the nature of at-will employment remains a major difference between the United States and other post-industrial nations even when sharing a legal origin in English common law. Moreover, there is evidence pointing to the already existing influence on English sport from America in the 1885 case of the Football Association adopting professional payment practices that mimicked National League baseball.

Practically speaking, the United States is still both the largest global economy and largest sports entertainment market. Many still look to the United States for ideas and inspiration, including in professional sport. However, it is crucial to be wary of the

irreconcilable cultural differences, such as at-will employment, that allow the United States to operate differently from other nations with similar economic and/or population-based status. It would behoove those in the sports industry, as well as others, to consider undertaking background investigations before being drawn in by the American model as many things are incompatible, including but not limited to the 2016 Fair Work Commission.

Erik Nielsen's work provides greater insight into certain historical didactics from this period of the British Empire that would prove helpful in understanding the ongoing relationship across the Atlantic. This paper combines Nielsen's research with other scholarship on how a historical analysis in the field can also be made to benefit contemporary understanding and applications of the professional model. David Nadel also wrote about the professionalization of Australian rules football via the Victorian Football League (VFL) to Australian Football League (AFL), and this does incorporate ways in which the league looked to the United States. Although a good amount of his work examines commercialization, sports entertainment from an at-will employment-based country would likely have that impact on other nations.⁶²⁰ As Nadel also mentioned, the AFL introducing a player draft is another American concept that they have chosen to employ in an attempt to create greater parity in competition between teams. There is a stark difference between drafting a 17- or 18-year-old high school student that is not fully grown for the AFL and drafting a 21- to 23-year-old university student who has experience playing in front of tens of thousands of fans for the NFL. The verdict is still out as to the efficacy of this draft model in its current AFL form.

Nonetheless, there are two major ways in which the research is practical. From an academic perspective, there are now many avenues, provided below, in which to continue the

⁶²⁰ Nadel, "The Professionalisation and Commercialisation of Australian Football, 1975-1996."

research from the legal, sports, sociological, historical, and cultural fields. From a business point of view, the research can be applied to better integrate useful tactics used in the United States to other post-industrial nations. It also acts as a forewarning as to the clear pitfalls that are avoidable, or at least knowable, before making false assumptions as to what is possible when looking towards the world's largest sports entertainment market for guidance in answer to questions such as "what's next?" What follows are suggestions on how to engage in future research.

The research has contributed to a more complete understanding of the process of Americanization in sport, law, business and culture, but it has also done so by connecting otherwise separate fields that traditionally have not overlapped in doctoral research. Using history as the means in which law, business, culture and sport intertwine, not only is there a better understanding of how each of these fields operates in the isolation of their respective silos, but there is an ongoing, coherent, and cogent argument to understand how they have been related and adapted together over an extended period of time. As a result, precedence allows for making informed decisions by future leaders and others working in these industries.

3. Limitations

- Though this research extensively consults primary, secondary, and tertiary sources from books, journals, articles and other relevant sources, this final draft is free of interviews from recent and contemporary experts. This is in part due to objective issues, i.e., moving universities, lockdowns, covid, and other matters.
- Given that this research spans multiple silos of history, law, sport, and business, there were few sources that directly applied to *all* areas connected throughout the thesis. Connecting different silos of study did nevertheless offer opportunities to provide and produce a truly novel investigation and examination as well as final

written product.

4. Future Direction of the Research

- Interviews with recent (1980s to present) Australian athletes who have played professional and/or NCAA sport in the United States would provide deeper insights into the relationship between the nations, and how the system has and/or has not evolved since the 1890s.
- A case study on Montana post at-will employment may be quite useful. How would Montana be relevant as it is largely not urbanized? Is the state capital of Helena enough of an urban environment to produce findings with significantly larger implications?
- How have leaders picked up on the value in aiming to understand other markets similar international markets? Does knowing these pitfalls and irreconcilable differences between the United States and other post-industrial nations provide enough to avoid the mistakes of the past?
- Given there has been a long story of asynchronous relationships between Australian athletes going to the US, will true momentum (the opposite of attrition) continue post-2010s with groups like Prokick Australia, or will this too be a short phase, as it has been in the past?
- There is a need for further research on players from the 1980s to date in order to contrast and compare with their predecessors. Though much of this research has been done, it is not a part of this publication.

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